

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	CRIM. NO. 2009-20
)	
JEROME BLYDEN, GELEAN MARK,)	
)	
Defendants.)	
_____)	

REPORTER'S TRANSCRIPT

JURY TRIAL

DAY 3

Wednesday, May 5, 2010

BEFORE: THE HONORABLE CURTIS V. GOMEZ
Chief Judge

APPEARANCES: OFFICE OF THE UNITED STATES ATTORNEY
BY: KIM LINDQUIST, AUSA
NOLAN PAIGE, AUSA

For the Government

MOORE DODSON RUSSELL
BY: TRESTON MOORE, ESQ.
For Defendant Blyden

HODGE & FRANCOIS
BY: MARK HODGE, ESQ.

For Defendant Mark

COURT REPORTER: CHANDRA R. KEAN, RMR
Official Court Reporter
Virgin Islands District Court
St. Thomas, Virgin Islands

1	<u>INDEX</u>				
2					
3	<u>WITNESS (Government)</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
4	James S. Springette	6	28	36	---
5	Elton Turnbull	38	71	85	---
6	Glenison Isaac	113	193	204	209
7	Michael Goldfinger	212	281	---	---
8	Kevin Adams	287	299	---	---
9	Darnell Blake	300	303	---	---
10	Mark L. Thomas, Sr.	304	---	---	---
11	Michael Aguilar	308	325	---	---
12	Theodore Phillips	328	338	---	---
13	Patricia Burn	340	349	---	---
14	Lannette Allison	351	362	---	---
15	Carlos J. Diaz	363	372	---	---
16	Elizabeth Adkins	373	379	---	---
17	Deepa Vanmali	380	388	---	---
18	Mark Joseph	397	(Not completed)		
19					
20	(Court recessed)				
21		---			
22					
23					
24					
25					

	<u>EXHIBITS</u>		
	<u>GOVERNMENT'S EXHIBIT NO.</u>	<u>MARKED</u>	<u>ADMITTED</u>
1			
2			
3	21A	6	11
4	21B	9	11
5	31A, 31B	40	---
6	22B	45	---
7	166B - 166Q 166B, 166C, 166J	70	(See next line) 323
8	32A, 32B	114	---
9	27B	130	---
10	24B	141	143
11	25B	149	---
12	26B	152	---
13	165K-1, 165K-2	206	---
14	36A	218	219
15	36B	220	---
16	37A	222	224
17	37B	226	348
18	38A	229	230
19	38B	230	360
20	39A-1	237	238
	39A-2	239	368
21	39B-1	242	243
22	40A	245	244
23	40B	246	---
24	41A	248	249
25	41B	249	378
	36B-1	251	---
	36B-2	251	---
	36B-3	254	---

1	<u>EXHIBITS (Cont'd)</u>		
2	<u>GOVERNMENT'S</u>		
3	<u>EXHIBIT NO.</u>	<u>MARKED</u>	<u>ADMITTED</u>
4	42A	264	---
5	42B	265	---
6	43A	266	---
7	43B	267	---
8	44A	268	---
9	44B	269	---
10	33	269	---
11	34	272	276
12	34A to 34H	273	---
13	35A	291	291
14	35B	293	388
15	36B	295	388
16	37B	296	---
17	39B-2	298	370
18	166A	315	316
19	35C-3	333	335
20	45C to 164C	400	---
21	45B to 164B	409	---
22			
23	<u>DEFENDANT'S</u>		
24	<u>EXHIBIT NO.</u>	<u>MARKED</u>	<u>ADMITTED</u>
25	(None)		

PROCEEDINGS

(Court in session, jury present, 9:03 a.m.)

(Witness resumed stand)

THE COURT: Good morning, ladies and gentlemen.
I hope you had a pleasant evening.

We are still in the government's case-in-chief, as
you know.

Mr. Springette is still on the stand, and we are in
the direct of Mr. Springette's examination.

Counsel, good morning.

MR. LINDQUIST: Good morning.

MR. MOORE: Good morning, Your Honor.

THE COURT: Is counsel ready to proceed?

MR. PAIGE: Yes, we are, Your Honor.

THE COURT: All right. Good morning,
Mr. Springette.

THE WITNESS: Good morning, Your Honor.

THE COURT: Do you recall that you are under
oath, sir?

THE WITNESS: Yes, sir.

MR. HODGE: Your Honor?

THE COURT: Yes.

MR. HODGE: I need a sidebar. There's
something fundamental, a fundamental issue I need to

1 take up with the Court.

2 THE COURT: All right. We'll take it at the
3 next break. Go ahead.

4 MR. PAIGE: Thank you, Your Honor.

5 THEREUPON, JAMES S. SPRINGETTE, previously duly
6 sworn, was examined and testified as follows:

7 DIRECT EXAMINATION (Continued)

8 BY MR. PAIGE:

9 Q. Good morning, Mr. Springette.

10 A. Good morning, sir.

11 Q. Last evening I think we left off with you and the
12 organizational structure of your drug trafficking
13 organization.

14 There was a -- was there a hierarchy to your
15 organization?

16 A. Yes, sir.

17 MR. PAIGE: I would like to show you what has
18 been marked as Government's Exhibit 21A.

19 (Government's Exhibit No. 21A marked)

20 MR. PAIGE: Your Honor, I have an original
21 here, if I may approach.

22 THE COURT: Is it a single item?

23 MR. PAIGE: I'm sorry?

24 THE COURT: Is it a single item that you can
25 put on the Elmo?

1 MR. PAIGE: Yes, it is.

2 THE COURT: All right. Go right ahead, then.

3 MR. PAIGE: Your Honor, we're going to use the
4 screen, if you don't mind.

5 THE COURT: All right.

6 BY MR. PAIGE:

7 Q. Do you see Government's Exhibit --

8 A. Yes, sir --

9 MR. PAIGE: Your Honor, we're going have to
10 take that off the screen, I'm sorry. Judge, this is
11 21A. However, it's an original copy, and what's on
12 Sanctions is 21B.

13 THE COURT: What's, you just want to show it to
14 the witness, right?

15 MR. PAIGE: That's correct.

16 THE COURT: Well, go ahead and show it to him.

17 THE WITNESS: Yes, sir, I'm familiar with it.

18 THE COURT: Show it either on the Elmo or show
19 it on the computer, however you choose to.

20 MR. PAIGE: All right. I'm going to show it on
21 the Elmo. Sorry.

22 THE COURT: It's already on the screen. We can
23 all see it.

24 MR. PAIGE: This is the document we're seeking
25 to admit later. This is not what I'm holding. They're

1 similar.

2 So I can --

3 MR. HODGE: Your Honor, the issue I wanted to
4 discuss had to do with representation --

5 THE COURT: We'll get to it in a moment.

6 BY MR. PAIGE:

7 Q. Mr. Springette, do you see Government's
8 Exhibit 21A?

9 A. Yes, sir.

10 Q. Do you recognize this?

11 A. Yes, sir.

12 Q. What do you recognize this to be?

13 A. It's a, basically a chart, a graph that I, I wrote.
14 That's my handwriting and my signature and the date.

15 Q. And generally speaking, what does it depict?

16 A. It basically explains to, shows -- the letter shows
17 basically how I ran drugs from Venezuela to the U.S.
18 Virgin Islands on to North Carolina, and the people
19 involved and the steps and the roles that they played
20 during that process.

21 Q. And what date does it bear?

22 A. It says 3rd, 22nd of '06.

23 Q. Would this help you to more fully clarify your
24 testimony today?

25 A. Yes, sir. I can explain the whole situation, sir.

1 MR. PAIGE: I would like to show you what has
2 also been marked as 21B.

3 (Government's Exhibit No. 21B marked)

4 BY MR. PAIGE:

5 Q. Do you recognize Government's Exhibit 21B?

6 A. Yes, sir.

7 Q. What do you recognize this to be?

8 A. It's basically the same thing, sir. It shows the
9 situation when the drugs came from Venezuela to the
10 Virgin Islands and then on to North Carolina.

11 Q. And what is the relationship between 21A and 21B?

12 A. Basically it shows the structure. To give everyone
13 basically an idea of how the structure works, in
14 Venezuela in the year 2000 --

15 Q. Well, I'm sorry. No, no, no. The document itself,
16 is there any -- what is the relation --

17 A. It shows the different people involved. It shows
18 Robert Joseph. It shows Elton Turnbull. It shows --

19 MR. HODGE: Objection, Your Honor.

20 THE WITNESS: -- Kerwin.

21 THE COURT: Hold on, sir. Wait for a question.

22 Sustained.

23 BY MR. PAIGE:

24 Q. Is the document I'm holding, is that the original?

25 A. It is -- it looks like a copy that I -- it's my

1 handwriting, sir.

2 Q. Okay. The copy that you're looking at --

3 A. Yes, sir.

4 Q. -- is there any difference between the original of
5 that same document?

6 A. They're basically the same, sir.

7 MR. PAIGE: Your Honor, with that, I move for
8 the admission of Government's Exhibit 21B.

9 MR. HODGE: Objection.

10 THE COURT: Attorney Moore?

11 MR. MOORE: I object, and we request a Rule 105
12 instruction, Your Honor.

13 THE COURT: All right. This is -- did you
14 inquire of the witness whether 21B would assist his
15 testimony?

16 MR. PAIGE: Yes, Judge.

17 THE COURT: I know you did as to 21A. I don't
18 recall it for 21B.

19 BY MR. PAIGE:

20 Q. Mr. Springette, would Government's Exhibit 21B
21 assist you in your testimony today, to more fully
22 explain your organization?

23 A. Yes, sir.

24 THE COURT: All right. 21A and 21B are
25 admitted as demonstrative exhibits to assist the witness

1 in his testimony.

2 (Government's Exhibit Nos. 21A, 21B admitted)

3 THE COURT: Go ahead.

4 MR. PAIGE: Your Honor, if we may publish 21B.

5 BY MR. PAIGE:

6 Q. Mr. Springette, do you see 21B on the screen?

7 A. Yes, I do, sir.

8 Q. If you would -- there should be a laser pointer at
9 the witness stand with you.

10 A. Yes, sir.

11 Q. I think there might be a bottom -- a button at the
12 bottom of it.

13 A. All right.

14 Q. Press that.

15 Using the laser pointer, can you identify this
16 document?

17 A. Yes. That's me in Venezuela. That's my
18 handwriting there. This is -- I made this chart. And
19 this is, basically shows the structure of how the
20 organization worked.

21 I would be in Venezuela. I would have the drugs
22 sent to a gentleman in Tortola. Some of the drugs in
23 Tortola would go to a gentleman, his name is Jeffrey, on
24 to Puerto Rico and on to --

25 Q. Tell you what. Let's just deal with the right

1 side. The gentleman in Tortola, who is that person?

2 A. A gentleman by the name of Bob Hodge, sir.

3 Q. And from Mr. Bob Hodge, where would it go?

4 A. From Mr. Bob Hodge the drugs would come by
5 speedboat, and come from Mr. Hodge to a gentleman by the
6 name of Robert Joseph --

7 Q. And who is --

8 A. -- and Elton Turnbull, my cousin on St. Thomas.
9 Some of the drugs would be distributed in St. Thomas.
10 The drugs that were going to the States would go to a
11 gentleman by the name of Kerwin.

12 Kerwin was in charge of the person dealing with the
13 security at the airport and assisting in getting the
14 drugs from St. Thomas to North Carolina, where my cousin
15 Elton lived.

16 Q. Okay. Let's discuss the persons that you've
17 identified very briefly.

18 Mr. Robert Joseph, who is he?

19 A. Robert Joseph was one of my lieutenants. Robert
20 Joseph -- basically, in my organization I had certain
21 people that were close to me that can actually directly
22 speak to me. Robert Joseph, Elton Turnbull, Jeffrey,
23 all these people worked directly close to me, and then
24 they would basically have other people working under
25 them who could do different jobs.

1 Q. Okay. Let me ask you this: How much were you
2 purchasing the cocaine for initially, from the outset?

3 A. In Colombia, a kilo of cocaine would cost about
4 2,000 -- \$2,800, in Colombia, to get a general idea.
5 And then I would sell the cocaine here in the Virgin
6 Islands for \$10,000 a kilo.

7 My cousin --

8 MR. HODGE: Objection.

9 THE WITNESS: -- Elton would sell it for
10 20,000.

11 MR. HODGE: Objection.

12 THE COURT: Okay. Overruled.

13 BY MR. PAIGE:

14 Q. You can pick up with that \$10,000 reference, I
15 believe.

16 A. Excuse me?

17 THE COURT: Well, ask your next question.

18 BY MR. PAIGE:

19 Q. How much would it sell for in the Virgin Islands?

20 A. A kilo of cocaine would sell for \$10,000 in the
21 Virgin Islands. And then in the United States, when it
22 left the Virgin Islands through the airport to my cousin
23 in North Carolina, it would sell for \$20,000 or more.

24 And that's the wholesale price, sir. That's not
25 the retail price. That's the wholesale price.

1 MR. HODGE: Objection. Foundation.

2 THE COURT: Sustained.

3 BY MR. PAIGE:

4 Q. Mr. Springette?

5 A. Yes, sir.

6 Q. The name Kerwin is up on that chart.

7 A. Yes, sir.

8 Q. Do you know a person by the name of Kerwin?

9 A. Yes, sir. Kerwin is the gentleman who came into
10 the organization around the 2000 -- around 2000, 2001.

11 His association in the organization was with a
12 gentleman by the name of Robert Joseph.

13 Q. Do you know Kerwin's name, his full name?

14 A. I've learned his name is Mr. Gelean Mark, sir.

15 MR. HODGE: Objection. Foundation.

16 THE COURT: How is it that you know his name?

17 THE WITNESS: From the last trial, sir.

18 THE COURT: No.

19 Sustained.

20 MR. HODGE: Move for mistrial.

21 THE COURT: All right. Denied.

22 You're to disregard the last two answers from the
23 witness, ladies and gentlemen. It's not properly before
24 you.

25 Next question.

1 Come to sidebar.

2 (Sidebar discussion held as follows)

3 THE COURT: All right. Tell me where you're
4 going with this witness, and can you get there a little
5 more expeditiously, so we don't have statements like
6 "the other trial."

7 I don't like to hear that. I think everyone knows
8 I don't like to hear that, and yet I've heard it. Now
9 he's talking about information he learned from a trial.
10 We don't need that. So you need to get where you're
11 going, and you need to get there in an expeditious
12 fashion.

13 MR. PAIGE: Your Honor, I --

14 THE COURT: What else do you need to elicit
15 from this witness?

16 MR. PAIGE: Your Honor, he's going to just tell
17 us the methods, means that were employed to get the
18 cocaine to the United States. That was not the
19 government's intent, to elicit that response. He was
20 going to actually testify that he's never met Gelean
21 Mark. That was what the government was about to elicit
22 from him.

23 THE COURT: Well, if he says -- if you
24 understand that he's never met him, why are you asking
25 him about the name, when he says he clearly learned it

1 from the trial?

2 MR. PAIGE: I didn't ask him that, Judge.

3 THE COURT: All right. I thought that the name
4 came out because you made an inquiry of him, and that
5 was Kerwin.

6 MR. PAIGE: I was going to ask him the origin
7 or the source of the name.

8 THE COURT: All right. Well, I thought you
9 asked who was Kerwin, and he gave the name --

10 MR. PAIGE: And that's all.

11 THE COURT: -- Gelean Mark.

12 MR. PAIGE: That's all I was going to ask.

13 THE COURT: How would he have known the name?

14 MR. PAIGE: I wasn't going to ask him that,
15 Judge.

16 THE COURT: My point is that you did ask him --

17 MR. PAIGE: I didn't ask him --

18 THE COURT: -- who was Kerwin.

19 MR. PAIGE: Yes, yes, Your Honor.

20 THE COURT: All right. Anyway, you need to get
21 to the essential part of what you need to place before
22 the jury, because I don't want any more errant
23 statements coming out that are improperly before them.

24 MR. PAIGE: I'll make every effort to make sure
25 that that doesn't happen.

1 THE COURT: All right.

2 (End sidebar discussion, open court as follows)

3 BY MR. PAIGE:

4 Q. Mr. Springette, can you just -- what is your
5 personal knowledge of Kerwin's involvement in this
6 process?

7 THE COURT: Do you have any personal knowledge?
8 Yes or no.

9 THE WITNESS: Yes, I do, sir.

10 BY MR. PAIGE:

11 Q. What, if any, knowledge do you have --

12 MR. HODGE: Objection. Objection.

13 THE COURT: Sustained.

14 BY MR. PAIGE:

15 Q. What was Kerwin's involvement?

16 MR. HODGE: Objection.

17 THE COURT: Are you aware of Kerwin's
18 involvement?

19 THE WITNESS: Yes, Your Honor. I'm aware of
20 Kerwin's involvement, sir.

21 THE COURT: All right. Go ahead.

22 MR. HODGE: Objection. Foundation.

23 THE COURT: Overruled.

24 BY MR. PAIGE:

25 Q. Mr. Springette, what was Kerwin's first

1 involvement?

2 MR. HODGE: Objection. Foundation.

3 THE COURT: Overruled.

4 MR. MOORE: Your Honor, may I object and
5 request the source of his awareness, whether it's of his
6 own direct, personal knowledge?

7 THE COURT: I think the witness answered that
8 it is of his personal knowledge.

9 Do you have personal knowledge, Mr. Springette --

10 THE WITNESS: Yes, sir.

11 THE COURT: -- of the person referred to as
12 Kerwin's -- involvement?

13 THE WITNESS: Yes, sir, I do, sir.

14 THE COURT: All right. Go ahead.

15 MR. HODGE: I'm sorry, Your Honor. Do we get
16 to know how?

17 THE COURT: Next question.

18 BY MR. PAIGE:

19 Q. Mr. Springette, what was Kerwin's first involvement
20 with the organization?

21 A. Kerwin's involvement in the organization was, came
22 about by a gentleman by the name of Robert Joseph. We
23 needed someone to assist us in getting the drugs from
24 the Virgin Islands to the United States, and --

25 THE COURT: Mr. Springette, before you go on --

1 THE WITNESS: Yes, Your Honor.

2 THE COURT: Did -- is the source of your
3 information Mr. Joseph?

4 THE WITNESS: No, Mr. Joseph and Mr. Elton
5 Turnbull, sir.

6 MR. HODGE: Move to strike.

7 THE COURT: Provided you with this information
8 that you're talking about?

9 THE WITNESS: Direct, sir. Yes, sir.

10 THE COURT: All right.

11 MR. HODGE: Move to strike.

12 THE COURT: All right. Overruled.

13 Go ahead.

14 THE WITNESS: Yes. And because of my -- I was
15 living in Venezuela, I contacted Ker- -- I spoke to
16 Elton Joseph [sic], my cousin, and Robert Joseph at the
17 time. And they needed someone to help us get the drugs
18 from St. Thomas to North Carolina through the airport in
19 St. Thomas. And that's how we got in contact with
20 Kerwin, sir.

21 BY MR. PAIGE:

22 Q. Okay.

23 MR. MOORE: Your Honor, may my Rule 105
24 objection be continuing?

25 THE COURT: Yes.

1 MR. HODGE: I join in that, Your Honor.

2 THE COURT: Yes.

3 BY MR. PAIGE:

4 Q. Now, Mr. Elton Turnbull --

5 A. Yes, sir.

6 Q. -- what was his -- withdraw that.

7 Once the drugs got to North Carolina --

8 A. Yes, sir.

9 Q. -- what, if anything, would happen?

10 A. Well --

11 MR. HODGE: Objection. Foundation.

12 THE COURT: Sustained.

13 BY MR. PAIGE:

14 Q. Once the drugs left the Virgin Islands, what, if
15 anything, happened?

16 MR. HODGE: Objection. Foundation.

17 THE COURT: Sustained.

18 BY MR. PAIGE:

19 Q. Do you have any personal knowledge of what happened
20 to the drugs when they left the Virgin Islands?

21 A. Yes, sir. They were --

22 MR. HODGE: Objection. Objection. Foundation.

23 THE COURT: Sustained.

24 BY MR. PAIGE:

25 Q. Mr. Springette, do you have any personal

1 knowledge --

2 MR. HODGE: Asked and answered.

3 THE COURT: Overruled.

4 BY MR. PAIGE:

5 Q. Do you have any personal knowledge of what would
6 happen to the cocaine once it left the Virgin Islands?

7 A. Yes. It would go to the --

8 MR. HODGE: Objection. Foundation.

9 BY MR. PAIGE:

10 Q. Yes or no?

11 MR. HODGE: Objection. Foundation.

12 THE COURT: Overruled.

13 It's a yes or no.

14 THE WITNESS: Yes, sir. Yes, I do.

15 BY MR. PAIGE:

16 Q. How do you know that?

17 A. Because the drugs were sold to me and then I would
18 receive the money for the drugs, sir.

19 MR. HODGE: Objection.

20 THE COURT: Overruled.

21 BY MR. PAIGE:

22 Q. Where was the location of the money that you
23 received coming from?

24 A. The money would be flown in --

25 MR. HODGE: Objection. Foundation.

1 THE COURT: Overruled.

2 THE WITNESS: Go ahead?

3 MR. PAIGE: Yes, please.

4 THE WITNESS: The money would be flown in by
5 private plane, one of the planes that I owned, to my
6 ranch. I had 2,200 acres that had a runway built in
7 Venezuela.

8 MR. HODGE: Objection.

9 THE COURT: Overruled.

10 MR. HODGE: Nonresponsive.

11 THE COURT: Overruled.

12 THE WITNESS: The runway was built on my ranch
13 in Venezuela. And then I would have the planes that I
14 own fly the money, millions of dollars, from the Virgin
15 Islands back to the ranch in Venezuela.

16 BY MR. PAIGE:

17 Q. Do you have any personal knowledge of the source of
18 the money prior to it coming from the Virgin Islands to
19 you. Yes or no?

20 A. Yes, sir.

21 Q. How do you have that knowledge?

22 A. I spoke to my cousin Elton. I communicated with my
23 cousin Elton.

24 MR. HODGE: Objection. Hearsay.

25 THE COURT: Overruled.

1 THE WITNESS: I would speak to my cousin Elton.
2 I would communicate by phone with my cousin Elton to
3 make arrangements to have the money flown in from the
4 Virgin Islands to Venezuela.

5 BY MR. PAIGE:

6 Q. And in -- where was the source prior to the Virgin
7 Islands?

8 THE COURT: Before you answer that --

9 THE WITNESS: Yes, Your Honor.

10 THE COURT: -- all of the information that you
11 are giving now, with flying things into Venezuela, who,
12 if anyone, devised that method of operation?

13 THE WITNESS: I would basically come up with
14 the way, the plan of doing it, and then I would give
15 instruction -- we would all -- give instructions to
16 Elton, to give to different people to help facilitate
17 this, Your Honor.

18 THE COURT: All right.

19 Go ahead.

20 BY MR. PAIGE:

21 Q. Okay. So what was the source of the money prior to
22 the Virgin Islands?

23 A. North Carolina, sir.

24 Q. And how often -- I'm sorry. For how long did this
25 method, how long was this method utilized by your

1 organization?

2 A. From about 2000 to 2001, from 2001 to 2002, trips
3 of cocaine were going out and moneys were flown in to
4 Venezuela.

5 Q. Over that period of time, how many trips were made?

6 A. For cocaine flights going out from Venezuela to the
7 Virgin Islands, it's about seven trips, totaling about
8 3,000 kilos of cocaine.

9 Q. In what period of time was this that you're
10 speaking of?

11 A. This is from 2001 to 2002.

12 Q. 2002 and beyond?

13 A. No --

14 MR. HODGE: Objection, Your Honor.

15 THE COURT: Sustained.

16 BY MR. PAIGE:

17 Q. Was there a similar method employed by your
18 organization beyond 2002?

19 A. No. For this first particular phase that we're
20 talking about right now, I'm talking from about 2001 to
21 2002, when the air drops were basically coming from
22 Venezuela to the Virgin Islands, British and U.S. Virgin
23 Islands.

24 Q. Do you have any --

25 MR. HODGE: Objection. Relevance.

1 THE COURT: Let's hear the question, first.

2 BY MR. PAIGE:

3 Q. Do you have any personal knowledge as to who would
4 distribute the cocaine in North Carolina?

5 Yes or no.

6 A. Yes, I do, sir.

7 Q. And how do you have that personal knowledge?

8 A. I spoke directly with my cousin, Elton.

9 MR. HODGE: Objection.

10 THE COURT: Overruled.

11 When you refer to your cousin Elton, what, if any,
12 role did you have for your cousin Elton.

13 THE WITNESS: The role for Elton was basically,
14 he was the seller of the drugs, and he also assisted in
15 helping me get the money back to the island, sir.

16 MR. MOORE: Your Honor, for this line of
17 questioning may I also have a continuing hearsay
18 objection?

19 THE COURT: Yes.

20 MR. MOORE: Thank you, Your Honor.

21 MR. HODGE: I join in that, Your Honor.

22 THE COURT: Yes.

23 BY MR. PAIGE:

24 Q. What, if anything, was your cousin Elton's title
25 within the organization?

1 A. He would be considered a lieutenant. Basically in
2 the organization you have different people, have
3 different structures. Lieutenants were the ones that
4 were closest to me, that can speak directly to me. And
5 Elton would be considered a lieutenant, sir.

6 Q. Who, if anyone, assisted Elton in distributing the
7 drugs in North Carolina?

8 A. Yes. Elton would have -- each department --

9 Q. Who, if anyone?

10 A. Who, if anyone?

11 Q. Assisted Elton.

12 A. Elton would have his different group of people.
13 Each section of the organization --

14 MR. HODGE: Objection. Foundation.

15 THE COURT: Overruled.

16 THE WITNESS: Each department of the drug
17 trafficking trade has different people who would run
18 certain structures of the organization. For instance,
19 in Venezuela I had a group of people who --

20 MR. HODGE: Objection. Relevance.

21 THE COURT: Overruled.

22 THE WITNESS: I would have a group of people
23 who work under me, and they would assist me. In the
24 Virgin Islands you would have another group of people
25 who would work under, for instance, Kerwin.

1 In North Carolina you would have another group of
2 people that would work under Elton.

3 MR. HODGE: Objection. Foundation.

4 THE COURT: Okay. Overruled.

5 THE WITNESS: And each --

6 THE COURT: Mr. Springette, just so the record
7 is clear, you mentioned this operation. Who were the
8 people who were involved?

9 You mentioned a cousin and you mentioned some other
10 people. Who were the people involved, and what were
11 their roles, that you are personally aware of, while you
12 were involved in this operation?

13 THE WITNESS: All the people, Your Honor?

14 THE COURT: Well, just for the names you've
15 already mentioned on the record, I just want to make
16 sure that we're clear as to those people.

17 THE WITNESS: The persons involved, involved in
18 the operation were Elton Turnbull, Kerwin --

19 THE COURT: What was Mr. Turnbull's role, or
20 the -- and was -- this role that you tasked him with?

21 THE WITNESS: Yes, sir. I, he was part -- yes,
22 sir.

23 THE COURT: All right. Just list the names
24 that you have already mentioned and what, if any, role
25 you may or may not -- or rather may have tasked them

1 with.

2 THE WITNESS: The role of Elton was basically
3 the one who assisted in selling drugs. Kerwin was the
4 one who assisted in getting the drugs from the
5 Virgin Islands --

6 MR. HODGE: Objection. Foundation.

7 THE WITNESS: -- to --

8 THE COURT: Overruled.

9 THE WITNESS: Go ahead?

10 THE COURT: Yes.

11 THE WITNESS: -- through the airport in St.
12 Thomas to North Carolina. And then in Tortola you had
13 Mr. Hodge, who was basically using the boats to pick up
14 the drugs in Tortola.

15 THE COURT: All right. Go ahead.

16 MR. PAIGE: Court's indulgence one second.

17 (Pause)

18 MR. PAIGE: All right. Thank you,
19 Mr. Springette.

20 I have no further questions.

21 THE COURT: Attorney Hodge?

22 CROSS-EXAMINATION

23 BY MR. HODGE:

24 Q. Good morning, Mr. Springette.

25 A. Good morning, sir.

1 Q. Looking at Government's Exhibit 21B --

2 A. Yes, sir.

3 Q. -- who is the leader of that organization?

4 A. Who's the leader of the organization?

5 Q. Yes.

6 A. There is -- there's a different structure. There's
7 not -- it's an organization. It's an all-inclusive.

8 It's not a person who is a leader. It's an organization
9 of many people involved in the organization. Each
10 person --

11 Q. Sir, I believe you said you have lieutenants --

12 A. Yes, sir.

13 Q. -- beneath you?

14 A. I have lieutenants beneath me, sir.

15 Q. Who is the top of that organization?

16 A. My name is the person who is sending the drugs from
17 the, from the, Venezuela to the United States, sir.

18 Q. And you testified that the money came back to you
19 in Venezuela, correct?

20 A. Yes, sir.

21 Q. Did Bob Hodge work under Kerwin in this diagram?

22 A. He worked along -- he was part of the organization,
23 sir.

24 Q. Sir, did he work under -- was he a lieutenant of
25 Kerwin?

1 A. If Bob Hodge was a lieutenant of Kerwin?

2 No, I wouldn't say Bob Hodge was a lieutenant of
3 Kerwin.

4 Q. Was he an underling of Mr. Mark?

5 A. No. He worked along with Mr. Mark.

6 Q. So he was not an underling, he wasn't a lieutenant?

7 A. No, Mr. Hodge worked along with Kerwin in the
8 operation.

9 Q. Did Elton Turnbull work under the direction of
10 Mr. Mark?

11 A. He worked along, side by side with Mr. Mark, sir.

12 Q. So he wasn't a lieutenant of Mr. Mark?

13 A. No, I wouldn't say he was a lieutenant of Mr. Mark,
14 sir.

15 Q. And Robert Joseph, did he work under Robert --
16 Mr. Mark?

17 A. He worked alongside him, sir.

18 Q. So he was not a lieutenant of Mr. Mark?

19 A. As far as being a lieutenant -- he might have been
20 a partner with him.

21 Q. Was he an underling of Mr. Mark?

22 A. I don't understand what you say by "underling,"
23 sir. You have to explain what you mean by "underling,"
24 sir.

25 Q. Was it Mr. Mark who told Robert Joseph what to do?

1 A. Was it Mr. Mark that did -- was it Mr. Mark that
2 told Robert Joseph what to do?

3 Q. Yes.

4 A. No. They worked together, sir.

5 Q. Did Mr. Mark tell Elton Turnbull what to do?

6 A. He would tell him that the drugs were coming from
7 the Virgin Islands to the United States. He -- he's
8 being paid for it.

9 Q. Did he tell him what to do?

10 A. He got paid. That's part of his job, sir.

11 Q. Who is "he"?

12 A. Mr. Marks.

13 Q. So he was an underling?

14 A. He's getting paid. That's part of his job. It's
15 part of an organization.

16 Q. So he was an employee?

17 A. He worked for the organization.

18 Q. Mr. Mark was an employee --

19 A. No, he was --

20 Q. -- in --

21 A. -- he was more a contractor in the organization,
22 sir.

23 Q. So he was a separate, a separate organization?

24 A. He was part of the contract in the organization,
25 sir.

1 Q. Did Bob Hodge -- did Mr. Mark tell Bob Hodge what
2 to do?

3 A. I don't know if he told him what to do, but they
4 communicated in order for the drugs to get from the
5 British Virgin Islands --

6 MR. HODGE: Your Honor, excuse me --

7 THE COURT: Hold on.

8 All right. Go ahead. Ask your next question.

9 Mr. Springette, wait for a question and then answer
10 the question as directly as possible.

11 THE WITNESS: Okay. I'm sorry, Your Honor.

12 THE COURT: Go ahead, Attorney.

13 BY MR. HODGE:

14 Q. I'm not asking about anybody who is a partner. I'm
15 talking about just like you described in your
16 organization, having lieutenants underneath you. The
17 lieutenants did what you told them to do, correct?

18 A. Lieutenants worked along with me. The basic role
19 of a lieutenant -- I'm sorry.

20 Q. Sir, you indicated that you communicated with your
21 lieutenants, and for the most part you didn't
22 communicate with anyone beneath them. They were the
23 in-between people, correct?

24 A. The people in -- my lieutenants were the people who
25 I spoke with, because for security purposes --

1 Q. Sir, they were the ones who you communicated with
2 about this, the object of your drug conspiracy, correct?

3 A. They -- the ones who I spoke, communicated directly
4 as part of the organization, yes, sir.

5 Q. And you would not communicate with the people who
6 they were directing?

7 A. In most situations, for my security, no. I spoke
8 to my lieutenants, and my lieutenants would speak to the
9 other people within the organization.

10 Q. So the, this structure was designed to protect you?

11 A. The structure was designed to protect the
12 organization, sir.

13 Q. Are you the organization, sir?

14 A. No. We are all the organization, sir.

15 MR. HODGE: Court's indulgence?

16 THE COURT: Yes.

17 (Pause)

18 BY MR. HODGE:

19 Q. Looking at Government's Exhibit 21B, when they
20 were -- when your cocaine was to be distributed on St.
21 Thomas, it appears to go in a different direction than
22 Mr. Mark, is that correct?

23 A. Yes, sir. The cocaine will be -- when it left from
24 Venezuela, the drugs, some would go to Puerto Rico, some
25 would come to the Virgin Islands, sir.

1 Q. Sir, up here, there's a Puerto Rico branch and then
2 there's the St. Thomas branch over here. There's Robert
3 Joseph and Elton, correct?

4 A. Yes, sir.

5 Q. And underneath that there are two branches,
6 correct?

7 A. Yes, sir.

8 Q. One branch says "Kerwin," correct?

9 A. Yes, sir.

10 Q. The other branch says "distribution on St. Thomas"?

11 A. Yes, sir.

12 Q. They are listed as two distinct branches, correct?

13 A. Yes, sir.

14 Q. So the distribution on St. Thomas was not part of
15 Kerwin, or Mr. Mark's, responsibility, correct?

16 A. No, as --

17 Q. Thank you, sir.

18 A. -- to the --

19 Q. Thank you, sir --

20 A. -- to the --

21 Q. Thank you, sir --

22 A. -- to the contrary --

23 Q. Thank you, sir --

24 THE COURT: Hold on.

25 Mr. Springette, you have to wait for a question.

1 All right. Go ahead. Next question.

2 MR. HODGE: Court's indulgence?

3 THE COURT: Yes.

4 (Pause)

5 BY MR. HODGE:

6 Q. Did you ever meet Mr. Mark?

7 A. No, sir.

8 Q. Did you ever speak to Mr. Mark?

9 A. No, sir.

10 Q. At the time this was going on, had you ever seen
11 Mr. Mark?

12 A. No, sir.

13 Q. Had you ever heard his voice?

14 A. No, sir.

15 Q. You testified that Mr. Mark's involvement with this
16 organization was from 2001 to 2002, correct?

17 A. From 2001 to 2002, yes, sir.

18 MR. HODGE: Thank you.

19 No further questions, Your Honor.

20 THE COURT: All right.

21 Attorney Moore?

22 MR. MOORE: Your Honor, I have no questions of
23 this witness.

24 THE COURT: All right.

25 Redirect.

1 MR. PAIGE: Briefly, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. PAIGE:

4 Q. Mr. Springette, did Kerwin have any responsibility
5 as to the distribution of the drugs here in St. Thomas?

6 MR. HODGE: Objection. Asked and answered.

7 THE COURT: Overruled.

8 THE WITNESS: Here in the Virgin Islands, to
9 get an idea of how the drug distribution works, the
10 drugs --

11 MR. HODGE: Objection --

12 THE COURT: It's a yes or --

13 MR. HODGE: -- objection. Not responsive.

14 THE COURT: It's a yes or no question.

15 THE WITNESS: To get -- excuse me. Repeat your
16 question, sir.

17 BY MR. PAIGE:

18 Q. Did Kerwin have a responsibility as far as the
19 drugs -- excuse me -- distributed here in St. Thomas
20 Virgin Islands?

21 A. It's a part of his role --

22 MR. HODGE: Objection, Your Honor.

23 THE COURT: I think it's a yes or no question,
24 Mr. Springette.

25 THE WITNESS: I don't know if he would be

1 part -- his actual role in the distribution --

2 MR. HODGE: Objection, Your Honor.

3 THE COURT: Overruled.

4 MR. PAIGE: Thank you, sir.

5 THE COURT: Mr. Springette, thank you for your
6 testimony.

7 THE WITNESS: Thank you.

8 THE COURT: You may step down.

9 THE WITNESS: Excuse me.

10 THE COURT: Is there any further need for
11 Mr. Springette?

12 MR. LINDQUIST: No.

13 May he be excused?

14 THE COURT: All right. Attorney Hodge, any
15 further need for Mr. Springette?

16 MR. HODGE: No, Your Honor.

17 THE COURT: Attorney Moore?

18 MR. MOORE: I'm sorry?

19 THE COURT: Any further need for
20 Mr. Springette?

21 MR. MOORE: Oh, none -- no, Your Honor.

22 THE COURT: All right.

23 Mr. Springette is excused.

24 THE WITNESS: Excuse me, sir.

25 (Witness excused)

1 THE COURT: Your next witness?

2 MR. PAIGE: Mr. Elton Turnbull.

3 (Pause)

4 THE CLERK: Please raise your right hand to
5 take the oath. At the end respond, "I do."

6 (Witness sworn)

7 THE WITNESS: I do.

8 THE CLERK: Please be seated.

9 THEREUPON, ELTON TURNBULL, having been duly sworn,
10 was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. PAIGE:

13 Q. Good morning, sir.

14 A. Good morning.

15 Q. Will you please state your name for the record?

16 A. Elton Turnbull.

17 Q. Mr. Turnbull, how old are you?

18 A. Thirty-nine years old.

19 Q. Where are you from, Mr. Turnbull?

20 A. St. Thomas, U.S. Virgin Islands.

21 Q. Where do you -- how long did you live in St.
22 Thomas -- do you live in St. Thomas right now?

23 A. No, I do not.

24 Q. When did you last live in St. Thomas?

25 A. June of 1988 was when I was permanent -- was the

1 last time I permanently lived there.

2 Q. Tell us a little bit about your educational
3 background.

4 A. I attended All Saints Cathedral School. That's
5 where I graduated from. Upon graduation, I attended
6 Tuskegee University, where I graduated in 1993. And
7 after that, I was, I was enrolled in obtaining a
8 master's degree at North Carolina A&T.

9 Q. Okay. When you left St. Thomas immediately where
10 did you go? The location?

11 A. Tuskegee, Alabama.

12 Q. From Tuskegee to where?

13 A. For a brief period I came back here, before en- --
14 well, await -- while I was awaiting enrollment at North
15 Carolina A&T, which is in Greensboro, North Carolina.

16 Q. Okay. Where do you presently reside?

17 A. I'm incarcerated presently at MDC Guaynabo.

18 Q. When were you arrested?

19 A. In October of 2002.

20 Q. Do you have a criminal history?

21 A. Currently I do, yes.

22 Q. Do you have any felony convictions?

23 A. Yes, I do.

24 Q. And for what?

25 A. Drug trafficking and money laundering.

1 Q. When did you receive those convictions?

2 A. I was sentenced in, I think it was April of 2003.

3 Q. And what was your sentence?

4 A. Twenty-nine years and -- twenty-nine years for the
5 drug conspiracy and twenty years for the money
6 laundering.

7 Q. Were you convicted pursuant to a plea agreement?

8 A. Yes, I was.

9 Q. Are you here today pursuant to a plea agreement?

10 A. Yes, I am.

11 Q. Are you here today pursuant to a cooperation
12 agreement?

13 A. Yes, I am.

14 Q. What is your understanding of your responsibilities
15 pursuant to those agreements?

16 A. To divulge all involvement I had with my drug
17 dealing activities, any and all activity that I was
18 involved with.

19 MR. PAIGE: I would like to show you what's
20 been marked as Government's Exhibit 31A and 31B.

21 (Government's Exhibit Nos. 31A, 31B marked)

22 MR. PAIGE: Your Honor, may I approach the
23 witness?

24 THE COURT: Are they single pages?

25 MR. PAIGE: No, they're not, Your Honor.

1 THE COURT: All right. Yes.

2 BY MR. PAIGE:

3 Q. Mr. Turnbull, do you recognize Government's
4 Exhibit 31A?

5 A. Yes, I do.

6 Q. What do you recognize that to be?

7 A. I recognize the first one as the motion for my
8 sentencing, as far as the 5K1 and my plea agreement.

9 Q. How many pages are those documents?

10 A. The one in reference to the 5K1 is four pages, and
11 the other one is ten pages.

12 Q. Now, the one that's labeled 31A, how many pages is
13 that?

14 A. Ten pages.

15 Q. That's ten pages. Okay.

16 Now the other one with four pages, is that 31B?

17 A. Yes, that's correct.

18 Q. Okay. Let's start with 31A. Is your signature on
19 that agreement?

20 A. Yes, it is.

21 Q. Is your signature on 31B, as well?

22 A. Yes, it is.

23 Q. What is the date on 31A?

24 A. The date is March -- well, no, March 24th, 2003.
25 It looks like 24.

1 Q. And 31B?

2 A. The 8th of January, 2003.

3 MR. PAIGE: Your Honor, I move for admissions
4 of Government's Exhibits 31A and -B.

5 MR. HODGE: No objection.

6 MR. MOORE: Court's indulgence just a moment?

7 THE COURT: Yes.

8 (Pause)

9 MR. MOORE: Your Honor, I'm going to have some
10 continuing objections --

11 THE COURT: You object?

12 MR. MOORE: Yes, Your Honor, in conjunction --

13 THE COURT: All right. I'll take it under
14 advisement as to 31A and 31B.

15 MR. HODGE: I join in any objections Attorney
16 Moore has raised.

17 BY MR. PAIGE:

18 Q. Mr. Turnbull, do you know a person by the name of
19 Gelean Mark?

20 A. Yes, I do.

21 Q. How do you know Mr. Mark?

22 A. I know him, I know of him through a coconspirator
23 of mine named Robert Thomas.

24 Q. How long have you known Mr. Mark?

25 A. Since, I think it was late in the fall of 1998, I

1 think, if I'm not mistaken.

2 Q. Where did you meet him?

3 A. The first time I originally met him was in
4 Greensboro, North Carolina.

5 Q. Do you know him by any other names?

6 A. Yes, I do.

7 Q. What would those be?

8 A. The Married Man, Goatee, Maestro.

9 Q. Do you see Mr. Mark in court today?

10 A. Yes, I do.

11 Q. Would you please point him out and describe what
12 he's wearing?

13 A. He's over here to my left in the pastel yellow
14 shirt, with the black glasses on.

15 MR. PAIGE: Your Honor, I ask that the record
16 reflect the identification of Mr. Gelean Mark.

17 THE COURT: Yes, the record will reflect the
18 witness has identified Defendant Mark.

19 BY MR. PAIGE:

20 Q. Do you know a person by the name of Mr. James
21 Springette?

22 A. Yes, I do.

23 Q. How do you know Mr. Springette?

24 A. Mr. Springette is my cousin.

25 Q. Have you ever had any business dealings with

1 Mr. Springette?

2 A. Yes, I have.

3 Q. What is that -- what were those business dealings?

4 A. Mr. Springette was a supplier of narcotics, which I
5 sold.

6 Q. Over what periods of time?

7 A. Roughly from '96 or '97, in that area, until 2002.

8 MR. HODGE: Objection. Relevance.

9 THE COURT: Overruled.

10 BY MR. PAIGE:

11 Q. What was your -- was there an organizational
12 structure to you-all's trafficking of cocaine?

13 A. Yes, there was.

14 Q. Did you have a role in that structure?

15 A. Yes, I did.

16 Q. Did you have a title in that structure?

17 A. I was referred to as, as a lieutenant within the
18 organization.

19 Q. What was your role?

20 A. Part of my role was -- well, one of my roles was,
21 at that stage was communication with, communication with
22 other members of the organization.

23 Q. How frequent was your communication with
24 Mr. Springette?

25 A. During certain times it would be practically on a

1 daily basis, and during other times at least four to
2 five times per week.

3 Q. Were there other members of the organization?

4 A. Excuse me?

5 Q. Other members of the organization?

6 A. When you say "other members of the organization,"
7 essentially you mean would I have contact with other
8 members?

9 Q. No, I'm sorry. Let me clarify.

10 Were there any other members of your direct
11 trafficking endeavors, any other persons assist you?

12 A. Yes, there were.

13 Q. And who were they?

14 A. There were several other members that assisted in
15 various things such as air drops and smuggling the
16 narcotics through the airports. And we had couriers,
17 things of that nature, money couriers, drug couriers.

18 MR. PAIGE: I would like to show you what's
19 been marked as Government's Exhibit 22A, and ask you if
20 you recognize it.

21 MR. HODGE: Your Honor, are we looking at 22A?

22 THE COURT: I don't know. We'll see what the
23 government shows.

24 MR. PAIGE: Okay. I'm sorry, 22B, 22B.

25 (Government's Exhibit No. 22B marked)

1 BY MR. PAIGE:

2 Q. Do you recognize Government's Exhibit 22B?

3 A. Yes, I do.

4 MR. PAIGE: I believe it's a two-page document.
5 Go forward to the second page.

6 BY MR. PAIGE:

7 Q. Do you see the second page of 22B?

8 A. Yes, I do.

9 MR. PAIGE: Let's go back to the first one.

10 BY MR. PAIGE:

11 Q. Mr. Turnbull, what do you recognize that to be?

12 A. Basically a chart of the major members of the
13 organization and the duties that they performed.

14 Q. Did you prepare this?

15 A. Yes, I did.

16 Q. And what did you prepare it in relation to?

17 A. Where -- excuse me. Could you repeat?

18 Q. Why did you prepare it?

19 A. To show the basic structure of the organization.

20 Q. Would it be helpful in assisting you and to more
21 fully clarify your testimony today with respect to the
22 organization?

23 A. Yes, it would be, it would be helpful, correct.

24 MR. PAIGE: Your Honor, I move for admission of
25 Government's Exhibit 22B.

1 MR. MOORE: Your Honor, if --

2 MR. HODGE: Objection, Your Honor.

3 MR. MOORE: I object, too. If this witness has
4 his own direct personal knowledge --

5 THE COURT: Hold on.

6 (Simultaneous discussion)

7 THE COURT: Hold on. Stop. Stop.

8 I'll take it under advisement.

9 BY MR. PAIGE:

10 Q. Did Mr. Gelean Mark have any business dealings with
11 your organization?

12 A. Yes, he did.

13 Q. Do you have any personal knowledge of his role in
14 the organization?

15 A. Yes, I do.

16 Q. How do you have that personal knowledge?

17 MR. HODGE: Objection, Your Honor. Is the
18 document still on the witness' screen?

19 THE COURT: Overruled.

20 THE WITNESS: Could you repeat the question?

21 BY MR. PAIGE:

22 Q. How do you have any personal knowledge of his role?

23 A. With, by -- I have personal knowledge because of
24 direct, direct dealings with Mr. Mark.

25 Q. And from what period of time did this start?

1 A. Like I said, in -- like I said previously, in late,
2 late fall of 1998.

3 Q. What was Mr. Mark's first involvement with the
4 organization?

5 A. During that time, Mr. Mark had came to North
6 Carolina and he had sold some narcotics. And he didn't
7 want to come back to St. Thomas --

8 MR. HODGE: Objection --

9 THE COURT: Sustained.

10 MR. HODGE: Objection. Foundation.

11 BY MR. PAIGE:

12 Q. Mr. Turnbull, is this from your personal knowledge?

13 A. Yes, it is.

14 Q. How, how did you acquire this information?

15 A. Because Mr. Robert Joseph informed me that
16 Mr. Mark --

17 MR. HODGE: Objection. Hearsay.

18 THE COURT: Okay. Come to sidebar.

19 (Sidebar discussion held as follows)

20 THE COURT: Attorney Paige, what are you trying
21 to elicit out of this witness?

22 MR. PAIGE: Mr. Mark --

23 MR. HODGE: Your Honor, I can't -- I didn't
24 hear that.

25 THE COURT: Well, then come closer.

1 I -- we can't keep repeating --

2 MR. HODGE: It's four of us, Your Honor.

3 THE COURT: We've had eight up here before.
4 Just come in a little closer.

5 MR. PAIGE: Mr. Mark's involvement, Your Honor,
6 we've had prior testimony that Mr. Robert Joseph was a
7 member of the organization and a coconspirator. So he
8 got that information from a coconspirator, which would
9 make --

10 THE COURT: Right. But my question is: What
11 is the information?

12 Because if you're trying to elicit just some
13 general information about what Mr. Mark is doing in
14 North Carolina, that doesn't necessarily come in. If
15 it's something in furtherance of this RICO conspiracy,
16 that's a different matter; that is, if there's some
17 utterance that's made in furtherance of.

18 If it's just, "I learned that Mark was hanging out
19 in North Carolina, doing" blah, blah, blah, that's not
20 in furtherance of. So -- and that's what I think he was
21 just saying, "I heard from" -- so and so -- "that he
22 didn't want to do this and that."

23 That's not a statement in furtherance of a
24 conspiracy.

25 MR. PAIGE: That's correct.

1 THE COURT: So that's not coming in.

2 MR. PAIGE: But the government --

3 THE COURT: What is it --

4 MR. PAIGE: The question was, what his --

5 THE COURT: I'm not debating the issue with
6 you. I'm asking you, what is it you want to elicit from
7 this witness?

8 MR. PAIGE: Specific involvement with the
9 organization, which was the question.

10 THE COURT: All right. All right.

11 Well, the objection is sustained. So you need to
12 beware of eliciting things that are not statements in
13 furtherance of a conspiracy.

14 MR. PAIGE: Yes, Judge.

15 THE COURT: All right. Thank you.

16 Yes, Attorney.

17 MR. MOORE: We can just do it here instead of
18 in front of the jury, if that's all right. I, again,
19 for this witness, raise the 105. I request a limiting
20 instruction. I also raise the hearsay objection to
21 everything said by -- anything other than this witness.

22 THE COURT: All right.

23 MR. HODGE: I join in that, Your Honor.

24 THE COURT: Yes, yes. Well, as I said before,
25 it's -- you're all in unless you're out, you

1 specifically opt out.

2 MR. HODGE: Thank you, Your Honor.

3 (End sidebar discussion, open court as follows)

4 THE COURT: All right. Go ahead.

5 BY MR. PAIGE:

6 Q. Mr. Turnbull --

7 THE COURT: The objection was sustained, by the
8 way.

9 Go ahead.

10 BY MR. PAIGE:

11 Q. Mr. Turnbull, did you see Mr. Gelean Mark in July
12 of 2000, or the summer of 2000?

13 A. Yes, I did.

14 Q. What were the circumstances surrounding -- was
15 it -- withdrawn.

16 Was that meeting in relation to the organization?

17 A. Yes, it was.

18 Q. Where did it take place?

19 A. Well, during that summer, one of the meetings --
20 because we had several meetings during that summer. But
21 one of the meetings that took place concerned the
22 movement of narcotics through the airport on St. Thomas
23 to North Carolina.

24 Q. Where did this meeting take place?

25 A. It took place at a property in, I think it's the

1 Contant area.

2 Q. And you spoke directly to Mr. Mark in this regard?

3 A. Yes, I did.

4 Q. What was said by Mr. Mark in relation to moving
5 those narcotics through the airport?

6 A. Well, basically he gave me a description of how the
7 narcotics would be moved through the airport, and what
8 would be entailed of the couriers and things of that
9 nature.

10 Q. Exactly how did he explain this to you?

11 A. There would be a gentleman that worked for one of
12 the airlines, I think it was Delta, who would have a
13 leather laptop case that contained the narcotics. And
14 the courier would come through the airport, and by --
15 would come through Customs with an identical bag that
16 contained, basically, books and magazines; and at which
17 point they would go to the Delta ticket counter, after
18 he passed through Customs and Immigration, and the bags
19 would be switched at that point; and then at which point
20 the courier would board a US Air flight to North
21 Carolina. And, you know, that was the basic mode
22 of operandum [sic].

23 Q. Okay. At some point in the future did you all
24 employ this mode --

25 A. Yes, we did.

1 Q. -- of operation?

2 A. Yes, we did.

3 MR. HODGE: Objection. Foundation.

4 THE COURT: Overruled.

5 BY MR. PAIGE:

6 Q. And when did that begin?

7 A. That modus of operandum [sic] had been taking place
8 since, I want to say early 1999.

9 Q. And more specifically with respect to Mr. Mark,
10 from what date, from what year to what year?

11 A. 1999 until 2002.

12 Q. In 1999, approximately how many times did you all
13 employ this method?

14 A. Well over ten times.

15 Q. In 2000, approximately how many times did you
16 employ this method?

17 A. Again, well over ten times.

18 Q. 2001?

19 A. 2001, I would say between 15 and 20 times.

20 Q. And how many years thereafter? I'm sorry, I missed
21 that?

22 A. Excuse me?

23 Q. How many years thereafter?

24 A. Well, until my incarceration came in October of
25 2002. And basically that's when everything ceased.

1 Q. Now once the drugs were flown from the Virgin
2 Islands, do you have any personal knowledge as to where
3 their destination was?

4 A. Yes, I did.

5 Q. Where was that?

6 MR. HODGE: Objection. Foundation.

7 THE COURT: Overruled.

8 THE WITNESS: The narcotics would be flown in
9 to Charlotte, North Carolina, on a commercial US Air
10 flight --

11 THE COURT: Before you go on any further, tell
12 us how you know this.

13 THE WITNESS: The reason I know this is because
14 the, all the -- a lot of --

15 THE COURT: Do you know it from anyone that you
16 previously mentioned?

17 THE WITNESS: Yes, I did -- yes, I do.

18 THE COURT: All right. Go ahead. Answer the
19 question.

20 THE WITNESS: I know this information because
21 it was the modus of operandum [sic] that was discussed
22 by Mr. Mark as -- well, that was the flight we were
23 using, as far as that the couriers would board and come
24 to North Carolina -- well, Charlotte, North Carolina.

25 I lived in Greensboro, North Carolina, which is

1 approximately an hour and a half by car --

2 MR. HODGE: Objection. Calls for speculation.

3 THE COURT: Overruled.

4 THE WITNESS: -- which is an hour -- Charlotte
5 is an hour and a half by vehicle from -- it's an hour
6 and a half from Greensboro, North Carolina, where I
7 lived, to Charlotte.

8 And I would have couriers or drivers go to the
9 airport and meet the couriers at the airport and bring
10 the narcotics back to Greensboro, North Carolina.

11 BY MR. PAIGE:

12 Q. And this was on each of the occasions that you just
13 mentioned?

14 A. Correct.

15 Excuse me. There were, there was an occasion or
16 two when the couriers flew into Raleigh-Durham Airport,
17 which, again, is an hour and a half from Greensboro.

18 Q. Would you get any notification that this would
19 happen, prior to?

20 A. Yes, I would.

21 Q. How would you gain that information?

22 A. Mr. Mark would call me on the specific day and
23 notify me that we're working today. And later on in the
24 day he would provide me with a physical description of
25 the individual that would be traveling, if it was a

1 courier that he, himself, had recruited.

2 Q. Now once the drugs were transported to you, what
3 would you do with them?

4 A. Once the drugs made it to Greensboro, North
5 Carolina, I had various --

6 MR. HODGE: Objection. Relevance.

7 THE COURT: Overruled.

8 THE WITNESS: Once the drugs got to Greensboro,
9 North Carolina, I had various locations where the drugs
10 would be stored.

11 BY MR. PAIGE:

12 Q. How much were you selling the drugs for,
13 Mr. Turnbull?

14 A. I was selling one kilogram of cocaine --

15 MR. HODGE: Objection.

16 THE WITNESS: -- for \$22,000.

17 BY MR. PAIGE:

18 Q. How much of that money did you keep?

19 A. It varied, depending on who, who was the actual
20 owner of the kilo of cocaine.

21 Q. On average, how much would you keep?

22 A. On average, four to five thousand dollars.

23 Q. What, if anything, would happen with the remainder?

24 A. The remainder would go basically to who the owner
25 of that kilo of cocaine would belong to.

1 Q. Did you have anyone -- who, if anyone, assisted you
2 in the distribution of the narcotics in North Carolina?

3 A. I had various people within the organization who
4 handled such things as driving, storing narcotics --

5 MR. HODGE: Objection. Relevance.

6 THE COURT: Sustained.

7 BY MR. PAIGE:

8 Q. Who, if anyone, would assist you in distributing
9 the cocaine in North Carolina?

10 Would you sell --

11 MR. HODGE: Objection. Relevance.

12 THE COURT: Overruled.

13 BY MR. PAIGE:

14 Q. Would you sell the cocaine to anyone else
15 personally?

16 A. Yes, I did.

17 Q. Who would that be?

18 A. I sold to various -- I had about, roughly eight to
19 nine people that I sold narcotics directly to in
20 Greensboro, North Carolina.

21 MR. HODGE: Objection. Relevance.

22 THE COURT: Okay. Overruled.

23 BY MR. PAIGE:

24 Q. Was there anyone you sold it to regularly?

25 A. Yes, I did.

1 Q. Who was that?

2 A. It was -- you want me to refer to them by name
3 or --

4 MR. HODGE: Your Honor, may I have a continuing
5 objection?

6 THE COURT: Yes.

7 MR. HODGE: Thank you.

8 BY MR. PAIGE:

9 Q. Yes, by name and/or nickname, however you would --

10 A. There was a gentleman by the name of Big Ho.

11 Q. Do you know any names -- birth-given names?

12 A. In this business, very few people -- especially
13 when you're dealing hand-to-hand sales, you very seldom
14 use your birth-given names. So most of the names are
15 nicknames.

16 Q. Do you know a person by the name of Glenson Isaac?

17 A. Yes, I do.

18 Q. Who is Glenson Isaac?

19 A. He was a friend of Mr. Gelean Marks that lived in
20 the Raleigh-Durham area of North Carolina.

21 Q. Did Mr. Glenson Isaac participate in this drug
22 trafficking with you and Mr. Mark?

23 A. Yes, he did.

24 Q. How do you have -- do you have any personal
25 knowledge of that?

1 A. On several occasions I've sold kilograms of
2 cocaine --

3 MR. HODGE: Objection. Nonresponsive.

4 THE COURT: Overruled.

5 THE WITNESS: On several occasions I had -- I
6 have sold narcotics to Mr. Glenson Isaac.

7 BY MR. PAIGE:

8 Q. Where did Mr. Glenson Isaac reside?

9 A. As far as my knowledge, he resided in the
10 Raleigh-Durham area of North Carolina.

11 Q. Did you play any active role in the organization
12 outside of your activities in North Carolina?

13 A. Yes, I did.

14 Q. And where was that?

15 A. I was responsible, I was -- part -- one of my
16 duties was to be present at the boat drops that took
17 place to the northeast of, in the waters northeast of
18 Tortola.

19 Q. Would you generally describe how that came about?

20 A. Well, Mr. Springette, my cousin, he would notify me
21 on the time and dates when planes would be coming with
22 the cocaine, with bales of cocaine. And I would travel
23 to St. Thomas and be at specific locations, via boat, to
24 retrieve the cocaine that was dropped from the airplane.

25 Q. And how would you retrieve the cocaine?

1 A. We would just, basically retrieve it with gaff
2 hooks. The cocaine would come bundled in bales of 30,
3 30 kilograms of cocaine per bale. And we would
4 basically retrieve them from the water by gaff hooks and
5 store them on the boat until we took them back to land.

6 Q. Where was the physical location that you met
7 Mr. Mark?

8 A. Could you repeat the question?

9 Q. Where did you meet Mr. Mark? Where?

10 A. On the initial occasion or --

11 Q. The initial occasion.

12 A. The initial time I met Mr. Mark was in Greensboro,
13 North Carolina.

14 Q. Where?

15 A. It was, if I'm not mistaken, the parking lot of a
16 UPS, UPS distribution center.

17 Q. How often did Mr. Mark come to North Carolina?

18 A. Initially, Mr. Mark told me he didn't travel to
19 North Carolina on many occasions, because he had a fear
20 of flying during that time. So -- but I can't really
21 give you an exact number.

22 Because in the fall of 1998, that was my first time
23 meeting Mr. Mark, so we weren't discussing, "How many
24 times do you come to North Carolina?" That wasn't a
25 topic, an issue of discussion.

1 Q. Have you ever been to Mr. Mark's residence?

2 A. Yes, I have.

3 Q. Where was it?

4 A. It's, as you go up the hill from the Reichhold
5 Center, right as you crest that hill, he owns property
6 right above there. I'm not exactly sure. But it was in
7 the Bonne Esperance area or something.

8 I can't remember the exact name, but it's like a
9 lookout, that you can see the airport and beach and
10 everything right there.

11 Q. Mr. Turnbull, have you ever had any involvement in
12 gambling and dogfights?

13 A. Yes, I have.

14 Q. When did this begin?

15 A. I was involved actively in the dogfighting, or the
16 sport of dogfighting, ever since, roughly, 1994, I
17 became active in the sport.

18 Q. And what would you call active?

19 A. Participating directly, rather than just being a
20 spectator.

21 Q. Did you fight the dogs for sport, or gamble, for
22 money purposes?

23 A. Both.

24 Q. Do you have any personal knowledge of Mr. Mark
25 engaging in gambling on dogfights?

1 A. Yes, I do.

2 Q. How do you have that personal knowledge?

3 A. I have given Mr. Mark several -- dogs on several
4 occasions, and he and I have both attended several
5 dogfights together, on St. Thomas and in North Carolina.

6 Q. Where would you --

7 MR. HODGE: Objection. Relevance.

8 THE COURT: Overruled.

9 BY MR. PAIGE:

10 Q. Where on St. Thomas have you attended dogfights
11 with Mr. Mark?

12 A. At an area in the north side area called the farm,
13 what's referred to as the farm.

14 Q. Can you describe the farm?

15 A. It's an area, I think it's near the agricultural
16 station.

17 Q. Could you describe the layout of the farm,
18 generally?

19 A. It's basically on a hillside.

20 Q. What type of things are there?

21 A. Cages for the birds to be stored in. There was, I
22 think, two rooms where the birds were actually
23 exercised, in order to prepare them for fights --

24 MR. HODGE: Objection, Your Honor. Relevance.

25 THE COURT: Overruled.

1 BY MR. PAIGE:

2 Q. Were there any dogs there?

3 A. Yes. There were several dogs at the location.

4 Q. How were the dogs kept?

5 A. They were kept on chains.

6 Q. Do you have any personal knowledge of how Mr. Mark
7 became associated with the farm?

8 A. Yes, I do.

9 Q. How do you have that knowledge?

10 A. At one point Mr. Mark was keeping his, his chickens
11 that he used for cockfighting, and his dogs, at some
12 property in the Contant area, which is the area I was
13 discussing where we had a meeting previously. And he
14 informed me that the owner of that property had a, was
15 getting ready to sell the property --

16 THE COURT: Stop. Stop.

17 Let's move on to the next question.

18 BY MR. PAIGE:

19 Q. Did Mr. Mark have an ownership interest in the
20 farm?

21 A. No, he did not.

22 Q. Did he have any exclusive use of it?

23 A. Yes, he did.

24 MR. HODGE: Objection. Foundation.

25 THE COURT: Sustained.

1 BY MR. PAIGE:

2 Q. Do you have any personal knowledge of whether he
3 had exclusive use of the farm?

4 A. Yes, I do.

5 Q. How do you have that personal knowledge of how he
6 had exclusive use of the form?

7 A. From, from conversations that Mr. Mark and I had,
8 and along with the gentleman that owned the property.
9 It was discussed as far as --

10 THE COURT: Hold on. Just tell us about
11 your -- don't speak about your --

12 THE WITNESS: He was --

13 THE COURT: Hold on.

14 Do not talk about conversations with someone other
15 than Mr. Mark.

16 Do you understand?

17 THE WITNESS: Correct. Correct.

18 THE COURT: All right. Go ahead.

19 THE WITNESS: Conversations with Mr. Mark and
20 I. He would detail his, his, basically 24-hour access
21 to the farm, as far as feeding the chickens and the
22 dogs, storing feed there, and general upkeep and
23 maintenance of the property.

24 BY MR. PAIGE:

25 Q. Did you have any involvement with him acquiring

1 access -- exclusive access to the farm?

2 A. Yes, I did.

3 Q. What was that involvement?

4 A. I spoke to the gentleman who was, who actually
5 owned --

6 MR. HODGE: Objection, Your Honor.

7 Mischaracterizes the testimony.

8 THE COURT: Okay. Overruled.

9 BY MR. PAIGE:

10 Q. Tell us what you told that gentleman?

11 A. I told him Mr. Marks needed a, needed some space
12 where he could store his own chickens and dogs, because
13 he, at the time he didn't have anywhere to store them.

14 Q. Did you assist him in any other way with the use of
15 the farm?

16 A. Other than helping him to acquire access to the
17 farm initially, no.

18 Q. Other than speaking to the gentleman, did you
19 assist him in any other way in acquiring access?

20 MR. HODGE: Objection. Asked and answered.

21 THE COURT: Sustained.

22 BY MR. PAIGE:

23 Q. Approximately how many times have you been to the
24 farm?

25 A. Well over 100 times.

1 Q. I would like to show you --

2 MR. PAIGE: One second, Your Honor. Court's
3 indulgence?

4 (Pause)

5 BY MR. PAIGE:

6 Q. Can you tell us, elaborate on how the gambling was
7 involved with the dogfighting?

8 A. I'm not understanding the question.

9 Q. You testified that gambling was involved with the
10 dogfighting that you --

11 A. Correct.

12 Q. -- did. Okay.

13 Was Mr. Mark involved in the gambling as well?

14 A. Correct.

15 Q. Was that in conjunction with you?

16 A. Correct.

17 Q. Can you describe exactly how you gambled on the
18 dogfight?

19 A. Well, the gambling would take place if you, when
20 you match the dog with someone else, you would set a
21 dollar amount as far as -- that would be the bet. And
22 the dog that won the fight, the owner would collect the
23 wager from the opposing owner.

24 Q. What were the average amounts that were gambled on
25 the dogs?

1 MR. HODGE: Objection. Relevance.

2 THE COURT: If he has personal knowledge.

3 BY MR. PAIGE:

4 Q. Do you have any personal knowledge of the amounts
5 that were gambled on the dogs?

6 A. Yes, I do.

7 Q. How do you have that knowledge?

8 A. From dogs that I fought personally.

9 Q. And what were those amounts?

10 A. Those amounts --

11 MR. HODGE: Objection to relevance.

12 THE COURT: Sustained.

13 BY MR. PAIGE:

14 Q. Are you aware of the gambling amounts, personally
15 aware of the gambling amounts of any dogfights involving
16 Mr. Mark?

17 A. Yes.

18 MR. HODGE: Objection. Relevance.

19 THE COURT: Overruled.

20 THE WITNESS: Yes, I do.

21 BY MR. PAIGE:

22 Q. How do you have that personal knowledge?

23 A. Because I myself was, I helped pool the money
24 together to fight dogs on more than one occasion.

25 Q. How many, more than one occasion?

1 A. Well, twice, to be specific, to be specific.

2 Q. How about the first time?

3 A. Do you want to know the amount?

4 Q. Yes.

5 A. Okay. That amount was --

6 MR. HODGE: Objection. Relevance.

7 THE COURT: First of all, tell us who was
8 involved.

9 THE WITNESS: Well, on one occasion there was a
10 dog that I sent from North Carolina personally to --

11 THE COURT: Stop. Stop.

12 The question is who was involved.

13 THE WITNESS: Mr. Mark was personally involved
14 with finding somebody else to match the dog against here
15 on St. Thomas, that I was sending from North Carolina to
16 fight.

17 THE COURT: All right. Ask your next question.

18 BY MR. PAIGE:

19 Q. And what was the amount?

20 A. The amount for that fight, if I'm not mistaken,
21 was, I think \$5,000.

22 Q. Did you attend that fight?

23 A. No, I did not.

24 Q. How about the second one?

25 A. There was another fight that took place at the

1 farm, that I attended.

2 Q. And when was this?

3 A. It was, if I'm not mistaken, it was around Carnival
4 time of 19- -- either 1999 or 2000.

5 Q. Where was it located?

6 A. At the farm.

7 Q. Describe what you saw there?

8 A. A pit was constructed behind, there was a house
9 that was not occupied, and there was a pit that was
10 constructed at the rear to the house. And that's where
11 the fight took place.

12 Q. Were there others there?

13 A. Yes, there were.

14 Q. Do you have any personal knowledge as to the amount
15 that was being gambled on that fight?

16 MR. HODGE: Objection. Relevance.

17 THE COURT: Overruled.

18 THE WITNESS: I don't -- I'm personally not
19 aware of the exact amount, but I --

20 THE COURT: Stop.

21 Next question.

22 BY MR. PAIGE:

23 Q. Was the farm -- do you have any personal knowledge
24 that the farm was being used for any other purposes?
25 Yes or no.

1 A. Yes, I do.

2 Q. How do you have that knowledge?

3 A. From the owner of the farm.

4 MR. HODGE: Objection. Hearsay.

5 THE COURT: He hasn't said what the knowledge
6 is. Overruled.

7 BY MR. PAIGE:

8 Q. Who was the person?

9 A. The person was --

10 THE COURT: It's already been answered. He
11 said the owner of the farm.

12 Next question.

13 MR. PAIGE: I would like to show you what's
14 been marked as Government's Exhibits 166B through 166Q,
15 and ask you if you recognize it.

16 (Government's Exhibit Nos. 166B to 166Q marked)

17 BY MR. PAIGE:

18 Q. Do you see Government's Exhibit 166B?

19 A. No, I do not.

20 Okay. I see a picture now.

21 Q. Do you recognize 166B?

22 A. No, I do not.

23 Q. Let's try 166C.

24 Do you recognize 166C?

25 A. No, I do not.

1 Q. Okay.

2 MR. PAIGE: You can take that down.

3 All right. Thank you, Mr. Turnbull. I have no
4 further questions.

5 THE COURT: All right.

6 Attorney Hodge?

7 MR. HODGE: Court's indulgence?

8 THE WITNESS: Good morning.

9 MR. HODGE: Court's indulgence?

10 THE COURT: Yes.

11 (Pause)

12 CROSS-EXAMINATION

13 BY MR. HODGE:

14 Q. Good afternoon, Mr. Turnbull.

15 A. Good afternoon.

16 MR. HODGE: I would like to have, I believe
17 it's Government's Exhibit 16B.

18 (Counsel conferring)

19 MR. HODGE: 22B.

20 (Counsel conferring)

21 MR. HODGE: 21B, sorry.

22 Your Honor, I believe this was admitted into
23 evidence.

24 THE COURT: You want to publish? Yes.

25 BY MR. HODGE:

1 Q. Sir, could you take a look at Government's
2 Exhibit 21B, here?

3 A. Yes, sir.

4 Q. Do you recognize it?

5 A. Not as something that I've written.

6 Q. What would you say it depicts?

7 A. It details and depicts the structure of the
8 organization I was involved in.

9 Q. Is it accurate?

10 A. Fairly accurate.

11 Q. So at the top of the organization -- sorry. At the
12 top of the organization is Springette, correct?

13 A. Correct.

14 Q. And under him he had, he had lieutenants, correct?

15 A. Correct.

16 Q. And you were one of those, correct?

17 A. Correct.

18 Q. And generally speaking, he didn't communicate with
19 people lower than his lieutenants?

20 A. Correct.

21 Q. Did Mr. Springette act at the direction of
22 Mr. Mark?

23 A. Did he act at the direction of Mr. Mark?

24 Q. Did Mr. -- was Mr. Mark the one who told Springette
25 what to do?

1 A. No, he did not.

2 Q. Was Mr. Mark the one who told Bob Hodge what to do?

3 A. On certain occasions, yes.

4 Q. Who was it who paid Bob Hodge?

5 A. Bob Hodge was paid in cocaine. A portion of the
6 narcotics proceeds that would -- a percentage -- not a
7 portion, but a percentage of the amount of cocaine that
8 came through the waters of -- well, via the air drops.

9 Q. So he was paid by Springette?

10 A. Correct.

11 Q. And so it would be Springette who would tell him to
12 coordinate with Mr. Mark?

13 A. No, it would not.

14 Q. It would be you?

15 A. Yes, it would.

16 Q. So really, when you say that he acted at the
17 direction of Mr. Mark, you mean --

18 A. When you say "he"?

19 Q. I'm sorry. I'll rephrase.

20 So when you say that Bob Hodge occasionally acted
21 at the direction of Mr. Mark, you mean that he and --
22 excuse me -- Bob Hodge and Mr. Mark coordinated through
23 you, correct?

24 A. There would be occasions when Mr. Mark might have
25 knowledge that a certain day would not -- would be a not

1 too opportune day to bring narcotics from Tortola to St.
2 Thomas, and Mr. Mark would instruct Mr. Hodge, "Not
3 today," basically. So that's what I mean in reference
4 to there would be times when Mr. Mark would instruct
5 Mr. Hodge.

6 Q. I see.

7 But the question of whether or not to do the drop
8 is not -- is made by Springette, correct?

9 A. That's correct.

10 Q. Thank you.

11 You testified before about the ownership of the
12 cocaine that arrived in North Carolina. Do you recall?

13 A. Correct.

14 Q. Was any of that cocaine owned by Mr. Mark?

15 A. On occasions, yes.

16 Q. Really?

17 How much of the cocaine was owned by Springette?

18 A. The vast majority of it was owned by
19 Mr. Springette.

20 Q. And the proceeds of those sales would go to
21 Mr. Springette?

22 A. Correct.

23 Q. If, if cocaine -- excuse me. I'll rephrase.

24 Who was responsible for making sure that the
25 cocaine was distributed in North Carolina?

1 A. I was responsible for that.

2 Q. And this was at the direction of Springette?

3 A. Yes, it was.

4 Q. Did Mr. Mark play any role with respect to Jeffrey,
5 Puerto Rico, and New York?

6 A. Yes, he did.

7 Q. What role was that?

8 A. It was one specific occasion where Mr. Mark
9 helped -- he obtained a key to the property, to access
10 the property above the beach. And I think the beach is
11 named Santa Maria. And Mr. -- well, Jeffrey was to meet
12 with some individuals coming from Puerto Rico via boat
13 to transfer several bales of cocaine to the --

14 Q. So basically he got a key, in terms of actually --
15 a key that opens a lock?

16 A. To open --

17 THE COURT: Stop, stop. Counsel, come to
18 sidebar.

19 (Sidebar discussion held as follows)

20 THE COURT: All right. Attorney Hodge, I
21 thought you wanted to stay away from Puerto Rico and you
22 didn't want to have your client implicated in that. And
23 I don't think any of the testimony to this point said
24 anything about your client's involvement in anything in
25 Puerto Rico.

1 MR. HODGE: Well, Your Honor --

2 THE COURT: Hold on. Let me finish.

3 I thought that Mr. Springette talked about his
4 involvement and the people who were involved under him,
5 and only on one side of the diagram was there reference
6 to a subset of activity that Mr. Springette undertook
7 that involved your client.

8 And I thought that you were concerned about
9 bringing in Puerto Rico and implicating your client in
10 that. And I, I'm not really sure where you're going,
11 but I didn't -- I just wanted to make sure that, you
12 know, if that was your intent, to go into the Puerto
13 Rico material -- is that your intent?

14 MR. HODGE: Your Honor --

15 THE COURT: I'm not trying to direct your --

16 MR. HODGE: -- my intent.

17 THE COURT: I just --

18 MR. HODGE: -- my intent, once the Court
19 admitted that into evidence and showed the jury -- first
20 of all, Springette yesterday testified about drugs going
21 to Puerto Rico, one.

22 Two, the Court admitted --

23 THE COURT: I'm not --

24 MR. HODGE: -- please let me finish.

25 THE COURT: I'm going to give you a chance.

1 I'm just saying -- I'm not trying to debate an
2 issue with you. I'm just -- I just wanted to make sure
3 that that was your intention. If that's your intention,
4 to go into Puerto Rico, then, you know, it's your
5 cross-examination. You can go ahead.

6 But I thought there was some concern with it. And,
7 you know, if that's what your intent is, then --

8 MR. HODGE: Your Honor, what I'm saying is
9 Puerto Rico was brought in by the prosecution. And now
10 at this point I need to distance my client from that.

11 There's a gigantic conspiracy put in front of this
12 jury, and I need to show them that this is not my
13 client.

14 THE COURT: Okay.

15 MR. HODGE: This is an enterprise. He is not
16 the leader of any of this. He's not the -- you know --

17 THE COURT: Okay.

18 MR. HODGE: And all this evidence of that stuff
19 completely independent of him, things that he was not
20 the leader of. And the charge is enterprise where he is
21 the leader.

22 THE COURT: All right. I understand. I'm not
23 trying -- I'm not directing you. I don't have an
24 opinion one way or the other. I just wanted to make
25 sure, because I know you had voiced some concern about

1 that.

2 And I was just -- I think my recollection of the
3 record is that there was absolutely no testimony -- that
4 the government would be precluded from arguing anything
5 that would suggest your client was involved in any way
6 with anything that Mr. Springette was involved with,
7 that may have involved Puerto Rico or any other place.

8 MR. HODGE: But Your Honor never struck
9 that testimony --

10 THE COURT: Hold on. Hold on.

11 There -- I'm just telling you my recollection was
12 there was no such testimony.

13 So but if -- you know, my recollection is not
14 always the best. So I just wanted to make sure that
15 that was your intent. Now I understand your intention.

16 Okay. That's fine. Thank you.

17 (End sidebar discussion, open court as follows)

18 MR. HODGE: Court's indulgence?

19 THE COURT: Yes.

20 (Counsel conferring with defendant)

21 MR. HODGE: Your Honor, I move to strike all of
22 this witness' testimony with regard to Puerto Rico.

23 THE COURT: All right. This is testimony that
24 came out on cross-examination?

25 MR. HODGE: Yes, Your Honor.

1 THE COURT: All right. I'll take it under
2 advisement.

3 All right. Any other questions?

4 MR. HODGE: Court's indulgence?

5 THE COURT: Yes.

6 (Pause)

7 BY MR. HODGE:

8 Q. Sir, when the drugs were dropped into the sea off
9 the coast of Tortola, who was with you on those boats
10 picking it up? Generally speaking.

11 A. Myself, Bob Hodge. There were other members --
12 there were other individuals that Bob Hodge knew
13 personally, that I don't know personally. And one other
14 individual that I -- Robert, Robert Joseph, I think, is
15 his name, we refer to him as Unki; Stuart Taylor, and
16 there was another gentleman referred to as the
17 Frenchman.

18 Q. But not Mr. Mark?

19 A. No.

20 Q. And after picking it up there, you testified that
21 you put it onto a dinghy and drive it into --

22 A. Well, originally they were placed on 31-foot Open
23 Fisherman speed boats. Then when we got closer to the
24 shore of Tortola, that's when they would be placed on
25 dinghies and taken to shore.

1 Q. The shore of Tortola?

2 A. Tortola, correct.

3 Q. And where would they go from there?

4 A. They would be stored on Tortola until further
5 notice, as to how much was going to Puerto Rico, how
6 much was destined to eventually come to North Carolina,
7 and vice versa.

8 Q. And that decision was made by Springette?

9 A. The decision as far as how much was going -- yes,
10 correct.

11 MR. HODGE: Court's indulgence?

12 THE COURT: Yes.

13 (Pause)

14 BY MR. HODGE:

15 Q. And Mr. Mark had no role in the storage of the
16 drugs on Tortola, correct?

17 A. Not on Tortola, no.

18 MR. HODGE: Court's indulgence?

19 THE COURT: Yes.

20 (Pause)

21 BY MR. HODGE:

22 Q. When you were -- you would occasionally have
23 couriers transport money from North Carolina to St.
24 Thomas, correct?

25 A. That's correct.

1 Q. And this, and that money was under the control of
2 Springette's organization until it got to -- from the
3 time it left North Carolina, correct?

4 A. I'm not, I'm not understanding what you mean, it
5 was under Springette's control.

6 Q. Springette's organization was responsible for that
7 money until it got onto the plane in North Carolina,
8 correct?

9 A. Narcotics would come to North Carolina, and there
10 would be on occasions when --

11 Q. Sir, I'm asking about the money.

12 A. And I'm trying to describe to you exactly -- to
13 answer your question in detail, so it's not vague.
14 There would be occasions, let's say --

15 Q. Sir, you'll have an opportunity on redirect. My
16 question is this: When the money was transported from
17 North Carolina to St. Thomas, who was responsible for
18 packaging it?

19 A. I was responsible for packaging the money.

20 Q. And who was responsible for getting it to the
21 airport?

22 A. I was responsible for having one of my drivers take
23 it to the airport, take it to the airport along with a
24 courier.

25 Q. Now, this was one of your drivers?

1 A. Yes, correct.

2 Q. And this is one of your couriers?

3 A. That's correct; on most occasions, but not all.

4 Q. And when you -- and once you put them on a plane,
5 then -- I'll stop there.

6 MR. HODGE: Withdrawn.

7 Court's indulgence?

8 THE COURT: Yes.

9 (Pause, counsel conferring with defendant)

10 MR. HODGE: I apologize, Your Honor.

11

12 BY MR. HODGE:

13 Q. Isn't it true that the person you referred to as
14 Maestro or Kerwin was not a member of Springette's
15 organization?

16 A. Yes, he was part of the organization.

17 Q. Sir, do you remember testifying under oath on -- in
18 response to that very question?

19 A. Yes, I have.

20 Q. And do you recall responding that it is correct
21 that the person you referred to as Maestro or Kerwin was
22 not a member of Springette's organization?

23 A. In the early days of my acquaintance with Mr. --

24 Q. Sir, sir, that wasn't my question. Do you recall
25 testifying under oath that it was correct that the

1 person you referred to as Maestro or Kerwin was not a
2 member of Springette's organization?

3 A. Correct.

4 Q. You do recall stating that under oath?

5 A. I recall it.

6 Q. Okay.

7 MR. HODGE: Court's indulgence?

8 THE COURT: Yes.

9 (Pause)

10 MR. HODGE: No further questions, Your Honor.
11 I would like to reserve this witness.

12 THE COURT: Yes. Thank you, Attorney Hodge.
13 Attorney Moore?

14 MR. MOORE: Good morning, this honorable Court,
15 and ladies and gentlemen, government's counsel; and to
16 you, too, Mr. Turnbull.

17 THE WITNESS: Good morning.

18 FURTHER CROSS-EXAMINATION

19 BY MR. MOORE:

20 Q. Earlier you stated that you were a spectator before
21 you got into the sport of dogfighting?

22 A. That is correct.

23 Q. How long were you a spectator?

24 What year did you start going?

25 A. I really became interested in the sport of

1 dogfighting around the age of 11 or 12 years old, here
2 on St. Thomas.

3 Q. And you, when you got involved, you said you got
4 involved into it in 1994?

5 A. Hands on, I got involved into it around 1994; '94,
6 '95, correct.

7 Q. "Hands on," that means you were --

8 A. I was actually owning dogs and matching dogs.

9 Q. Were you also putting together matings and breeding
10 and things of that sort?

11 A. Yes, I was.

12 Q. Did you ever, like, read any books about it, or --

13 A. Yes. I read extensively about the sport, and
14 animals -- I have a degree in animal science, you know,
15 so I have a lot of knowledge as far as animals,
16 breedings, and things of that nature.

17 Q. With regard to dogs, did you ever read anything
18 about -- by a person named Wilson Sparks?

19 A. I'm not familiar with that name.

20 Q. All right.

21 MR. MOORE: I have no further questions, Your
22 Honor. Thank you.

23 THE COURT: Thank you, Attorney Moore.

24 Redirect?

25 REDIRECT EXAMINATION

1 BY MR. PAIGE:

2 Q. Mr. Turnbull, was Mr. Mark always a member of the
3 Springette organization?

4 A. No. He was -- he was not always what I would
5 consider a member of the organization.

6 Q. Did Mr. Mark have anything to do with the storage
7 of drugs here on St. Thomas?

8 A. Yes, he did.

9 Q. In what way?

10 A. He would store the drugs that were --

11 MR. HODGE: Objection. Foundation.

12 THE COURT: Sustained.

13 BY MR. PAIGE:

14 Q. Do you have any personal knowledge of whether he
15 had anything to do with the storage of drugs here on St.
16 Thomas?

17 A. Yes, I do.

18 Q. Where do you have that knowledge from?

19 A. From Mr. Mark directly.

20 Q. Exactly what was his involvement in that regard?

21 A. Mr. Mark instructed me and told me as to some of
22 the locations he would store the drugs at, in
23 preparation for them being transported to North Carolina
24 via couriers.

25 Q. Where were those locations?

1 A. One of the locations was at the farm. Another one
2 was at a property located in, I think it was --

3 THE COURT: Mr. Turnbull, you said that you
4 were told this. When were you told this?

5 THE WITNESS: I was told this on several
6 occasions, several occasions.

7 THE COURT: All right. When did you first
8 learn this, then?

9 THE WITNESS: Of the locations where the drugs
10 were stored at?

11 THE COURT: Yes.

12 THE WITNESS: In roughly 1999.

13 THE COURT: All right.

14 BY MR. PAIGE:

15 Q. Now, the second location -- I believe you said the
16 farm --

17 A. Would be an area, I think it was in the Solberg
18 area.

19 MR. PAIGE: All right. Thank you,
20 Mr. Turnbull.

21 I have no further questions.

22 THE COURT: All right. Mr. Turnbull, thank you
23 for your testimony --

24 MR. HODGE: Your Honor, Your Honor, brief
25 recross.

1 THE COURT: No, I don't think we went beyond
2 the cross.

3 Thank you, Mr. Turnbull. You may step down.

4 THE WITNESS: You're welcome.

5 THE COURT: Mr. Turnbull is not excused.

6 I understand, Attorney Moore, Attorney Hodge, you
7 wish to have him?

8 MR. HODGE: Yes, Your Honor.

9 MR. MOORE: Your Honor, I -- I'm through, but I
10 respect my co-counsel's position.

11 THE COURT: All right.

12 Does the government have any further need?

13 MR. PAIGE: No, Your Honor.

14 THE COURT: All right. Next witness.

15 Well, actually, you know what? This might be a
16 good time for our morning break, ladies and gentlemen.

17 We will take a 15-minute break.

18 (Jury not present, 10:43 a.m.)

19 THE COURT: All right. Did counsel need the
20 Court to address any matters?

21 MR. HODGE: Yes, Your Honor, the matter I tried
22 to raise at the beginning of the day.

23 THE COURT: All right. Go ahead.

24 MR. HODGE: I need it to be at sidebar, Your
25 Honor.

1 THE COURT: All right. Are there any other
2 matters we need to attend to?

3 All right. I know that the parties have submitted
4 on that question on the activities in the BVI. The
5 Court is considering that. We should have a ruling
6 fairly soon on that.

7 Let me just remind counsel, no speaking objections
8 are necessary. If you have a basis, just state whether
9 it's hearsay or whatever it is. And the Court will
10 rule. But speaking objections, I don't want those in
11 front of the jury.

12 With sidebars, I just want to remind counsel, as I
13 said yesterday, that the Court is available before the
14 9:00 a.m. start. The reason the Court is available is
15 so that when the jury is here we can start, not first
16 thing they hear when we're ready to start is that we
17 need to begin with a sidebar.

18 So the Court is available during all breaks, and
19 always before the start of the day.

20 Now, there was a motion, Attorney Hodge. Did you
21 want to hear -- be heard on your motion?

22 You had elicited some testimony. Then I think you
23 then moved to have that testimony struck.

24 You want to be heard on that?

25 MR. HODGE: Yes, Your Honor.

1 THE COURT: Would you please stand?

2 MR. HODGE: Actually, Your Honor, I think that
3 should wait until I've addressed the issue I need to
4 have addressed at sidebar.

5 THE COURT: Well, I -- all right.

6 Well, why don't you tell us basically what your
7 outline is?

8 You made the motion, and I think I can hear from
9 the other parties. There's no need to hear that at
10 sidebar.

11 MR. HODGE: Your Honor, I would argue that
12 the -- as I explained yesterday, when government first
13 brought Springette onto the stand, that they were going
14 to bring up Venezuela, Colombia, Puerto Rico.

15 And minutes -- over my objection, Your Honor
16 allowed Springette to testify.

17 Minutes into his testimony, he had already brought
18 up Colombia, Venezuela and Puerto Rico.

19 The -- and at that point Your Honor -- and in
20 addition, today Your Honor allowed an exhibit in with a
21 structure of the organization, with an entire branch
22 dedicated to Puerto Rico, and, of course, Venezuela at
23 the top.

24 And Your Honor, at that point I was in the position
25 I warned the Court I would be in yesterday, which is

1 forced to question about that, to show that my client
2 was not connected.

3 And it's, it was irrelevant to begin with, and it's
4 irrelevant now. And the witness' effort to connect my
5 client should be stricken, Your Honor.

6 THE COURT: But Attorney Hodge, I don't think
7 that the government elicited any testimony implicating
8 your client in Puerto Rico.

9 You did. So -- but I think I understand your
10 position.

11 Attorney Moore, do you want to be heard on this?

12 MR. MOORE: Yes, Your Honor.

13 THE COURT: All right.

14 MR. MOORE: First, I would like to state, I
15 previously made my objections regarding a variety of
16 issues, and I'm soon going to get to Crawford, as well,
17 to add to the other two.

18 THE COURT: Right. We'll deal with the
19 Bourjaily issues shortly.

20 Go ahead.

21 MR. MOORE: Currently, Your Honor, I didn't
22 want to open that door regarding anything involving
23 Puerto Rico. And I wish to, first off, disagree there's
24 a conspiracy. My client has opted to minimize any
25 conspiracy, and to demonstrate his lack of involvement

1 with it.

2 THE COURT: All right. So you join in the
3 motion, but for other reasons.

4 MR. MOORE: Yeah. I don't want the Puerto
5 Rico-New York part of it involved at all.

6 THE COURT: All right. I understand.

7 All right. What's the government's position?

8 MR. PAIGE: Your Honor, the government objects.
9 In the first instance, the government intentionally
10 stayed away from that prong of that organization.

11 Counsel elicited that testimony on
12 cross-examination, intentionally so. So we do not think
13 it should be stricken.

14 THE COURT: All right. But notwithstanding
15 what defense counsel has done or said, or their
16 position, isn't there a 403 issue?

17 That is, at the core of the government's case,
18 isn't it that the racketeering activity, the criminal
19 enterprise undertook its deeds primarily here in St.
20 Thomas?

21 That is, the drugs was -- drugs were sourced from
22 South America, they were dropped in the BVI, but the nub
23 of the activity is right here. You don't really want to
24 get into Puerto Rico, do you?

25 MR. PAIGE: No. We made no effort to do so,

1 Judge.

2 THE COURT: Well, that's my point, though.
3 Isn't there a 403 issue that -- I don't think counsel
4 had mentioned this, but it seems to me there's a 403
5 issue that the Court, in its gatekeeping function,
6 should be concerned with, and that is that this is a
7 sideline issue that the jury need not get into.

8 So shouldn't I strike it, just on that basis?

9 MR. PAIGE: Yes, Judge.

10 THE COURT: All right. I think that's what I'm
11 going to do.

12 Thank you, Counsel.

13 All right. I'll let the jury know, as soon as we
14 come back, on that.

15 All right. And then what's your issue, Attorney
16 Hodge? What's your other issue?

17 MR. HODGE: Your Honor, it's a sidebar issue.

18 THE COURT: All right. Does it involve a
19 juror?

20 MR. HODGE: No, it doesn't, Your Honor.

21 THE COURT: All right. Come to sidebar.

22 (Sidebar discussion held as follows)

23 THE COURT: All right.

24 MR. LINDQUIST: I'm sorry.

25 THE COURT: There is a juror note that the

1 Court received. One of the jurors has indicated that
2 the juror would like to be dismissed, and I'll read the
3 rest of this: "I find this case to be difficult. I
4 have not been able to sleep in two nights. My spouse is
5 off-island on business."

6 There's some business concerns that the juror has.
7 And the juror gets into some of those business
8 considerations, including payroll, handling certain
9 activities in the juror's business, and notes that in
10 the absence of the spouse, the juror has to pick up the
11 responsibilities of the spouse, which is adding to the
12 stress of serving on the jury.

13 And the juror also mentions a physical ailment, not
14 related to sitting or something that we typically hear
15 of, which is the need to urinate; none of that sort of
16 stuff, a physical injury, just dealing with a bad
17 joint -- bad shoulder, that is.

18 And says, "Serving on the jury pulls me away from
19 the proper therapy on the shoulder."

20 And the juror, of course, in the beginning starts
21 with they would like to be dismissed; and notes that,
22 hopes that the Court would take this into consideration.

23 The Court's intention was to indicate to the juror
24 that there are some difficulties in serving as a juror.
25 It's never easy, and to remind the juror that serving on

1 this case might mean they wouldn't be called for the
2 rest of the month or the rest of the duration of their
3 jury service.

4 But there is nothing in here, other than the
5 mention of the shoulder, that suggests there's some
6 discomfort that, at least in the first instance, gives
7 the Court some pause.

8 If this were something where there was a need for
9 some, a procedure, medical procedure, then the Court
10 would be very, very concerned and say we have to
11 accommodate this juror.

12 That's my intention, but I would like to hear from
13 the parties. Let me hear from the government first.

14 MR. LINDQUIST: I agree with you. I think
15 that's the proper way to respond to it.

16 THE COURT: All right.

17 Attorney Moore?

18 Or are we going Hodge first? Attorney Hodge.

19 MR. HODGE: I would, I think that the issue I
20 need to discuss may result in me having to hold off on
21 -- I'm sorry -- on my position on that.

22 THE COURT: Well, let's deal with the jury
23 issue. I mean, do you have a position on that? What's
24 your position?

25 MR. HODGE: Your Honor, I don't think that's a

1 good idea to keep someone on the jury who's, you know,
2 complaining about, has a medical complaint. Because
3 when they get in the jury box, they're going to be
4 looking for the fastest way out.

5 THE COURT: All right.

6 Attorney Moore.

7 MR. MOORE: At this time, Your Honor, I
8 wouldn't be inclined to release them, although I'm
9 somewhat sympathetic to the argument of co-counsel. But
10 I think you told us yesterday about another juror who's
11 got a need to, possibly, leave early.

12 And we had four alternates. And I think it would
13 be a good idea to try to go as long as we can. If
14 necessary, we can release somebody who's got those
15 problems closer to deliberation.

16 THE COURT: All right. Well, there are two
17 other matters that had come up with jurors.

18 One was -- well, the one passed yesterday -- not
19 passed, but that issue has been resolved. That was why
20 we ended early. I was hoping we could end the
21 Springette testimony, but one juror had another matter
22 that came up, and had to leave to meet that commitment
23 at 7:00.

24 I don't know if that's a recurring thing. I
25 haven't inquired. I hope it isn't. But that's just --

1 MR. MOORE: I disagree with Your Honor. I'll
2 keep that juror.

3 THE COURT: So, you know, if that's -- that's
4 one issue that we had. Then there's another juror who
5 had vacation. But that, too, was resolved.

6 The juror, I thought we would have to discuss it
7 this morning, but the juror has indicated that they will
8 just put off their vacation. Apparently they had been
9 excused for a later time in the week, and they were
10 ready to go, and brought it to the Court's attention.

11 But this morning, before we had a chance, they said
12 no. So that just is another consideration with this.

13 There are issues that pop up all the time with
14 jurors, and this is one. So I'm inclined to go the
15 route that the Court initially suggested.

16 I note your objection, Attorney Hodge.

17 How do the parties suggest that the Court handle
18 this?

19 My inclination was to have Mrs. Trotman let them
20 know that the Court has considered this, and that, you
21 know, give them a time when we think the trial will be
22 over, and let them know that, you know, they'll be
23 excused from serving for the next six weeks, or
24 something like that.

25 Alternatively, I can have them come here at sidebar

1 in the presence of counsel, and the Court can address
2 that juror directly.

3 My inclination is the former. I think it might be
4 a little less --

5 MR. LINDQUIST: Intimidating.

6 THE COURT: -- intimidating. But I am also
7 aware that counsel has a right to be there for every
8 contact with any juror.

9 Let me start with the defense.

10 Attorney Hodge, what's your position?

11 MR. HODGE: I vote for the former, Your Honor.

12 THE COURT: Mrs. Trotman?

13 MR. HODGE: (Indicating)

14 THE COURT: Okay.

15 Attorney Moore?

16 MR. MOORE: Mrs. Trotman, Your Honor.

17 MR. LINDQUIST: Yes.

18 THE COURT: All right. That's how we'll handle
19 it, then.

20 All right. Attorney Hodge, what's your issue?

21 MR. HODGE: When I arrived this morning, my
22 client indicated to me that in light of my lack of
23 familiarity with the evidence in this case and the
24 witnesses in this case, given my limited time to
25 prepare, that he wants me removed as counsel and that he

1 wants to proceed pro se.

2 THE COURT: All right. Well, he has a right to
3 proceed pro se. I don't think he has a right to dismiss
4 you, though.

5 My inclination, although I'll hear from all the
6 parties on this, is to have you continue there as
7 standby counsel. He needs to be advised of the risk of
8 proceeding pro se. That's my first thought. And he
9 needs to be advised of some of the difficulties
10 procedurally, et cetera, and that you would still be
11 there to assist.

12 What's the government's position?

13 MR. LINDQUIST: Yes. As to that which you've
14 just said, at least that, I, I'm just being a bit
15 cautious, because it's an unusual circumstance, and I
16 want to make sure that I --

17 THE COURT: Usually this happens before the
18 trial --

19 MR. LINDQUIST: Yes.

20 THE COURT: -- and then we --

21 MR. LINDQUIST: That's what I'm --

22 THE COURT: But the result, I think, is usually
23 the same, which is that I would never allow a defendant
24 to proceed without the aid of counsel. If they choose
25 to avail themselves of that opportunity, it's always

1 there for the defendant. But the defendant has a
2 constitutional right to stand in court and conduct his
3 own cross-examination and call witnesses. It's his
4 trial, so.

5 MR. LINDQUIST: I --

6 THE COURT: But if the parties want some time
7 to think about this, I suggest you do that over the
8 break, since --

9 MR. LINDQUIST: May we just confer a bit?

10 I think the Court is absolutely correct on the way
11 to handle it. I'm sensing, though, that as far as
12 advice to him, advice to the jury as to what's
13 happening, those have to be calculated and be done very
14 carefully.

15 THE COURT: I don't think the jury necessarily
16 needs to get too involved in that, lest it flag more
17 things than need to be flagged.

18 I think that a general instruction at some point, I
19 don't -- you know, I might do that before Mr. Mark
20 starts, or sometime in the afternoon, and say, "You may
21 have noticed Mr. Mark -- as every person who appears in
22 court, has a constitutional right to represent
23 themselves, that does not mean that counsel may not
24 assist, and that is precisely what is happening here";
25 something like that.

1 But I'll let counsel weigh in on that.

2 Attorney Moore, do you have something to say? I've
3 heard from everyone except for you.

4 MR. MOORE: Your Honor, it's sort of a subtle
5 move. I think it's more along the lines of some
6 synchronized swimming type considerations, and it has,
7 it has effects on not only the presentation, but
8 planning and some other aspects of this.

9 And it's sort of like, I guess, in a horse race, to
10 have a horse loose with the jockey not on it around the
11 other horses, so it poses some surprises and some new
12 concerns for me and my client.

13 And I, I'll take all the time you'll give us to
14 speak with my client and figure out what's -- maybe he
15 wants to do it, too.

16 THE COURT: Of course, you know it's a right
17 that's Mr. Mark's to exercise.

18 MR. MOORE: I have no problem with that --

19 THE COURT: And it doesn't necessarily
20 implicate your client.

21 MR. MOORE: Yes, Your Honor. Because he's my
22 -- he will become my co-counsel, and I would ordinarily
23 have -- there would be aspects of what we do and what we
24 don't do that I have to completely reconsider.

25 THE COURT: Well, you know, that's a private

1 arrangement, the co-counsel, the closeness of
2 co-counsel, then, if Mr. Mark chooses to.

3 MR. MOORE: Yes, Your Honor.

4 THE COURT: So --

5 MR. MOORE: Yes, Your Honor.

6 THE COURT: But I appreciate what your concern
7 is.

8 All right. Well, we'll take a 15-minute break. I
9 don't want the jury cooling their heels for too long.

10 I don't know if this is a discussion we need to
11 have a sidebar. In fact, I think it would behoove all
12 concerned to have this more in open court, because the
13 defendant needs to be addressed, it seems to me.

14 MR. LINDQUIST: I agree.

15 THE COURT: Of course, that was without
16 prejudice to the parties spending the next 15 minutes
17 informing themselves on anything that would add to the
18 conclusion.

19 But I think this needs to be done sooner, rather
20 than later, to at least let Mr. Mark know about the
21 difficulty of conducting his own defense.

22 All right. Do you have any objection to that?

23 MR. MOORE: The question --

24 THE COURT: Hold on. Attorney Mark -- Attorney
25 Hodge?

1 MR. HODGE: Your Honor would explain to him the
2 difficulties?

3 THE COURT: Of course, yes. That's what I
4 said. I want to do that as soon as possible, and then
5 we'll take the break, so everyone has a chance --

6 MR. HODGE: -- Your Honor.

7 THE COURT: -- including the defendant, to
8 consider the ramifications on the undertaking he's about
9 to embark on.

10 MR. HODGE: That's fine with me, Your Honor.

11 THE COURT: Attorney Moore, do you have any
12 problem with that?

13 MR. MOORE: No, Your Honor.

14 THE COURT: Attorney Lindquist?

15 MR. LINDQUIST: No. That's fine.

16 THE COURT: All right.

17 (End sidebar discussion, open court as follows)

18 THE COURT: All right. Attorney Hodge, I
19 understand your client has indicated a desire to
20 represent himself; is that correct?

21 MR. HODGE: Yes, Your Honor.

22 THE COURT: All right. Well, all right.

23 It's unusual that this happens at this time of the
24 case. It's not unusual that a party may want to
25 represent themselves, and in fact it's a party's right

1 to represent themselves.

2 Mr. Mark, if you can rise for the moment, please.

3 THE DEFENDANT: Stand up?

4 THE COURT: Stand up, yes.

5 You have a right to represent yourself. Of course,
6 you should be aware that in any trial it is difficult,
7 and there are certain rules of procedure and certain
8 rules of law that anyone who appears in court has to be
9 aware of. So it's an undertaking that is difficult, if
10 you are inclined to go that way.

11 Notwithstanding that, you have a constitutional
12 right to appear and defend yourself.

13 At the same time, the Court, being aware of the
14 difficulties, and since Attorney Hodge has been involved
15 in this case since February of this year, the Court will
16 continue to have Mr. Hodge as your standby counsel. He
17 is there to provide any assistance that you may wish to
18 avail yourself of, to consult with you, but it would be
19 your defense to conduct as you choose to.

20 But before I do that, I need to make sure that
21 you're aware that you need to abide by the rules of
22 procedure. Are you aware of that, sir?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: All right. And I need to be sure
25 that you are aware that there are many, many, many

1 difficulties involved in any case, difficulties for the
2 government, for the defendant, for defense counsel, for
3 anyone in a criminal or civil case, particularly in a
4 criminal case. And I need you to know that it is
5 extremely difficult to conduct a case, or represent a
6 party, regardless of which side you're on. Are you
7 aware of that?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Do you understand what I'm saying?

10 THE DEFENDANT: Yes, I do, Your Honor.

11 THE COURT: All right. And so when you take
12 this on your own, you are taking on that heavy burden on
13 your own shoulders to do the primary job of defending
14 yourself.

15 Do you understand that?

16 THE DEFENDANT: Can I respond to that --

17 THE COURT: I just need to know if you
18 understand.

19 THE DEFENDANT: Yes, I understand.

20 THE COURT: And you understand that there are
21 rules of procedure that you would need to abide by. Do
22 you understand that?

23 THE DEFENDANT: You're asking if I know the
24 rules?

25 THE COURT: No, I'm asking you if you're aware

1 that you need to abide by certain rules of procedure?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: All right. Do you also understand
4 that Mr. Hodge will remain here as your standby counsel,
5 so if you need to ask some questions or consult with him
6 on procedural matters or on the law, or anything you see
7 fit to, that he is there for your benefit?

8 Are you aware of that? Yes or no.

9 Do you understand what I've just said?

10 THE DEFENDANT: Yes, I understand what you
11 said.

12 THE COURT: All right.

13 All right. I think what we're going to do, then,
14 is we will take a break so that the parties can consider
15 the information that the Court has just shared, and then
16 we can revisit this when we reconvene.

17 You know, it is very -- again, I said it's very
18 difficult to represent yourself, and I just think that
19 you can consider that.

20 What I'm allowing, Mr. Mark, is you to represent
21 yourself, but you should know that if you choose to at
22 some point revert to what was going on before, which was
23 having Mr. Hodge be your representative here in court,
24 we can go back to that. You just need to let the Court
25 know that.

1 Do you understand that?

2 THE DEFENDANT: Yes.

3 But can I address that issue?

4 THE COURT: Hold on one second. Then one final
5 thing with respect to your counsel.

6 While the Court is well aware that it is difficult
7 to have new counsel, and I think in this case you may
8 have had -- or at least in this and related cases, four
9 different counsel, and I, at least four, I believe, in
10 this and the related cases in which you've appeared in
11 this court, and it's difficult to adjust to one. It is
12 always difficult, even where there's been a
13 long-standing relationship.

14 But you should also be aware that all lawyers who
15 appear in this court have an obligation to represent you
16 zealously. They have an obligation to abide by the
17 rules of law, the rules of procedure and the orders of
18 this Court. And to do anything less would be a
19 violation of their duty as lawyers and as officers of
20 this court.

21 So while there might be some discomfort with a
22 counsel who has come into this case, I think February
23 the 5th or thereabouts, and while there may be some
24 strategic concerns, you should be aware that every
25 lawyer who appears in this court has to be a zealous

1 advocate.

2 And everyone discharges that duty, everyone has
3 discharged that duty to the Court's -- at least in my
4 view, and in particular in this case, I -- you know,
5 I'll just point out that defense counsel, your counsel
6 has made vigorous and cogent and competent arguments at
7 sidebar and before the Court on a number of issues,
8 including the inquiry of one of the individuals who was
9 not charged with certain activities.

10 I think the government wanted some information, or
11 that line of testimony stricken, and the Court agreed
12 with your counsel that it should not be stricken. It
13 was permissive inquiry.

14 There's a matter under advisement now about
15 activities that took place in the BVI, and again there
16 was cogent and persuasive argument. I don't know which
17 way I'm going to rule on it yet. But again, your
18 counsel has made that argument.

19 There was some discussion about photographs, I
20 think they were the "5" series photographs, 5Q through
21 W, that were daylight photographs of where this alleged
22 incident took place, and there's been vigorous and
23 competent argument that they should be used for
24 locational purposes, and not a depiction of the scene as
25 it appeared at the time of the incident.

1 That's a significant thing the Court agreed with
2 and the Court will instruct the jury on.

3 I highlight just those few things to let you know
4 that while there may be some discomfort because of the
5 newness, because of the general discomfort in any human
6 relation, that it doesn't mean that your lawyer isn't
7 working hard and in a competent fashion on behalf of
8 you.

9 So I say that all so that you can consider that.
10 But again, I'm well aware that it's your constitutional
11 right to represent yourself here in court, if you choose
12 to. At the same time, you will have the availability of
13 counsel.

14 Before you address me, I think what we'll do is
15 take a break so you can consider some of the things I
16 said and confer with your standby counsel. And I'm
17 happy to hear what you have to say, but you need to be
18 advised that there are, just that there are certain
19 things you need to consider before we bring the jury
20 back in and go back into the examination of witnesses.

21 Do you understand that?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: All right.

24 Fifteen minutes, Counsel.

25 (Court in recess, 11:10 a.m.)

1 (After recess, jury not present, 11:27 a.m.)

2 THE COURT: You can stand up, and I guess you
3 can speak into that microphone or you can come to the
4 lectern.

5 All right. Did you consider what I had said, sir?

6 THE DEFENDANT: Yes, I did.

7 THE COURT: All right. Is it your desire to
8 represent yourself still?

9 THE DEFENDANT: Could I explain, Your Honor.

10 THE COURT: Well, I need a yes or no, because I
11 need to ask you a few more questions, and then we'll --

12 THE DEFENDANT: No, Your Honor.

13 THE COURT: You said "no"?

14 THE DEFENDANT: No.

15 THE COURT: No?

16 THE DEFENDANT: No.

17 THE COURT: All right. Then if it's not your
18 desire, then I think I need to hear through your
19 counsel, then, what you're saying. If it's not your
20 desire to represent yourself, then your counsel needs to
21 speak for you.

22 THE DEFENDANT: Go back to my seat?

23 THE COURT: Yes, you can -- thank you, sir.

24 (Counsel conferring with defendant)

25 MR. HODGE: Your Honor, my client feels that at

1 this point the damage is done, in that there were two
2 key witnesses that were examined before this morning.
3 He had attempted to raise this issue this morning, and
4 Your Honor, I wasn't trying to -- this morning, I wasn't
5 trying to interrupt the jury by asking for a sidebar.

6 We had been told by the court clerk that Your Honor
7 would be calling us into his chambers this morning
8 before bringing in the jury, and I had been awaiting
9 that opportunity. And when it didn't arise, that's why
10 I attempted to raise it at sidebar.

11 The -- but based on Your Honor's admonitions and
12 warnings, my client feels that he can't represent
13 himself at this point, that he should stick with
14 appointed counsel.

15 THE COURT: All right. Very well.

16 Line up the jury.

17 Attorney Hodge, is that position informed by the
18 examinations that took place this morning?

19 That is, if there's a need to examine someone and
20 you feel it's been, that there are other questions that
21 need to be asked, if that's the question, you're saying
22 that's the basis for the decision not to represent
23 himself?

24 MR. HODGE: Your Honor, that was a part of it.
25 My preparedness, as well. As Your Honor knows, the case

1 file wasn't provided to me until March 17th, although I
2 had technically been appointed to the case on
3 February 5th.

4 THE COURT: Attorney Hodge --

5 MR. HODGE: Yes.

6 THE COURT: -- you keep saying that. Now
7 you're appointed. You're a zealous advocate. You're a
8 member of the Bar. You're the former president of the
9 Bar Association. You have a duty to be a zealous
10 advocate when you're appointed.

11 That means if there are things in the record, you
12 go about and you review those things in the record. You
13 know who your opponent is. They're right here in the
14 building, the US Attorney's Office. You go and you get
15 what you need to get in order to represent your counsel.

16 You repeat it and you repeat it as though, if you
17 continue to repeat it, somehow that's going to change
18 the outcome.

19 You are the appointed counsel. You are obligated
20 as an officer of this court to be a zealous advocate for
21 your client.

22 Now, I don't think we need to revisit this anymore
23 on when you were appointed. It's all in the record.
24 You've said it before.

25 Now, do you have something else you wish to add?

1 MR. HODGE: Well, I would just clarify one
2 point, Your Honor.

3 THE COURT: We're not debating this issue. Do
4 you have something else you wish to add, other than the
5 issue of when you're appointed and things along that
6 line?

7 MR. HODGE: Your Honor, you indicated that
8 under my duty to zealously --

9 THE COURT: Attorney, maybe you're, you're not
10 understanding me. This is not a debate.

11 Do you have something else that is germane to the
12 representation of your client before we bring in the
13 jury and bring in the next witness?

14 Yes or no?

15 MR. HODGE: No, Your Honor.

16 THE COURT: All right. Thank you.

17 (Jury present, 11:34 a.m.)

18 THE COURT: Is the government ready to proceed?

19 MR. PAIGE: Yes, we are, Your Honor.

20 THE COURT: Okay. Call your next witness.

21 MR. PAIGE: The government calls Glenson Isaac.

22 (Pause)

23 THE CLERK: Please raise your right hand to
24 take the oath, and at the end respond, "I do."

25 (Witness sworn)

1 THE WITNESS: I do.

2 THE CLERK: Please be seated.

3 THEREUPON, GLENSON ISAAC, having been duly sworn,
4 was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. PAIGE:

7 Q. Good morning, sir.

8 A. Good morning.

9 Q. Would you please state your name for the record?

10 A. Glenson Isaac.

11 Q. Mr. Isaac, are you here -- let me ask you this: Do
12 you have any criminal convictions?

13 A. Yes.

14 Q. And what would that be?

15 A. Dogfighting and drug charges.

16 Q. When was your first felony, criminal conviction?

17 A. '91.

18 Q. And what was that for?

19 A. Possession.

20 Q. Of what?

21 A. Drugs.

22 Q. What kind of drugs?

23 A. Cocaine.

24 Q. And your second conviction?

25 A. Dogfighting and trafficking.

1 Q. Would that be drug trafficking as well?

2 A. Yes.

3 Q. Are you here today pursuant to a plea agreement?

4 A. Yes.

5 Q. And what was that plea to?

6 A. I pled guilty to a conspiracy.

7 Q. Would that be conspiracy -- in what sense? I'm
8 sorry.

9 A. Drug charges.

10 Q. And what is your understanding of your
11 responsibilities pursuant to that plea agreement?

12 A. To testify and tell the truth.

13 MR. PAIGE: Court's indulgence for one second,
14 Judge.

15 (Pause)

16 MR. PAIGE: Mr. Isaac, I would like to show you
17 what's been marked as Government's Exhibit -- Exhibits
18 32A and 32B.

19 (Government's Exhibit Nos. 32A, 32B marked)

20 MR. PAIGE: They are multiple-page documents,
21 Your Honor. May I approach the witness with the
22 originals?

23 THE COURT: Yes.

24 BY MR. PAIGE:

25 Q. Mr. Isaac, do you recognize Government's Exhibit --

1 let's start with Exhibit 32A?

2 A. Yes.

3 Q. What is it?

4 A. Plea agreement.

5 Q. And how many pages is that plea agreement?

6 A. Seven.

7 Q. And how about 32B?

8 A. Seven.

9 Q. Are those two --

10 THE COURT: What is 32B?

11 MR. PAIGE: Your Honor, may I retrieve 32B,
12 just to --

13 THE COURT: I'm asking the witness a question.
14 What is 32B?

15 THE WITNESS: Supplement of -- to guilt --
16 guilty plea agreement.

17 THE COURT: All right. You can retrieve them.
18 Go ahead.

19 MR. PAIGE: Okay. He's identified it. That's
20 fine.

21 BY MR. PAIGE:

22 Q. Now, is that the plea agreement that you just
23 testified about a couple minutes ago?

24 A. Yes.

25 Q. Is your signature contained within that agreement?

1 THE COURT: Are you asking him about A or B, or
2 both?

3 MR. PAIGE: Actually both. I'm sorry.

4 BY MR. PAIGE:

5 Q. Let's start with A. Is your signature on A?

6 A. Yes, at the back, last page.

7 Q. And what date does it bear?

8 A. October 24, '06.

9 Q. How about 32B?

10 A. Same date, October -- no, October 26, '06.

11 MR. PAIGE: Your Honor, I move for admissions
12 of Government's Exhibit 32A and -B.

13 THE COURT: Attorney Hodge?

14 MR. HODGE: No objection, Your Honor, other
15 than the same objection as to the previous agreements.

16 MR. MOORE: Your Honor, I object to the
17 admission, and I may need to state my grounds.

18 THE COURT: All right. I'll take it under
19 advisement.

20 BY MR. PAIGE:

21 Q. Mr. Isaac, have you had any legitimate forms of
22 employment, sources of income?

23 A. Yes.

24 Q. And what would that be?

25 A. A kennel and a promoter.

1 Q. What kind of kennel?

2 A. Dog.

3 Q. During what years did you have a dog kennel?

4 A. '94 to '98.

5 Q. And what would you do with the dog kennel?

6 What type of business was it?

7 A. Breeding.

8 MR. HODGE: Objection. Relevance.

9 MR. MOORE: Objection.

10 THE COURT: Overruled.

11 BY MR. PAIGE:

12 Q. What did you do in relation to your dog kennel?

13 A. Breeding and dogfighting.

14 MR. HODGE: Objection. Relevance.

15 THE COURT: Overruled.

16

17 BY MR. PAIGE:

18 Q. Did you dogfight for a sport or for financial gain?

19 A. Sport and a financial gain, both.

20 Q. And where was this dog kennel located?

21 A. In North Carolina, Hillsborough, North Carolina.

22 MR. MOORE: Objection. Leading.

23 MR. HODGE: Move to strike.

24 THE COURT: Overruled.

25 BY MR. PAIGE:

1 Q. You said you did some promotion; in what regard?

2 A. Bringing in rap, rap artists and regular artists to
3 clubs.

4 Q. Mr. Isaac, when did you begin selling drugs?

5 A. In '91.

6 MR. HODGE: Objection. Leading.

7 THE COURT: Overruled.

8 THE WITNESS: '91.

9 BY MR. PAIGE:

10 Q. What type of drugs were you selling?

11 A. I was on a small scale --

12 MR. HODGE: Objection. Relevance.

13 THE COURT: Overruled.

14 BY MR. PAIGE:

15 Q. I'm sorry?

16 A. A small-scale, cocaine.

17 Q. Now prior to your most recent conviction, what was
18 the nature of your drug trafficking, or drug selling?

19 A. Like what, quantity?

20 Q. Yes, quantity.

21 A. Ten kilos, maybe, a week or two, something like
22 that.

23 Q. Over what period of time? Years.

24 A. On the big scale, '95, '96, on.

25 Q. On to what?

1 A. 'Til I got busted in '98.

2 Q. Any time thereafter?

3 MR. HODGE: Objection. Relevance.

4 THE COURT: Overruled.

5 THE WITNESS: Yeah. I started back up when I
6 got out of prison.

7 BY MR. PAIGE:

8 Q. And what were the years you were in prison?

9 A. December '99 to November '02.

10 Q. And you started back up at what point beyond then?

11 A. Starting back in '03.

12 Q. '03 until when?

13 A. Until '05.

14 Q. Okay. Mr. Isaac, do you know a person by the name
15 of Gelean Mark?

16 A. Yes.

17 Q. How long have you known Mr. Mark?

18 A. Grown up in child -- since childhood.

19 Q. Do you see Mr. Mark in court today?

20 A. Yes.

21 Q. Would you please point him out and describe what
22 he's wearing?

23 A. He's wearing a white shirt. I mean -- yeah, white
24 or tan shirt, with some glasses on.

25 Q. And who is he sitting beside? Can you describe?

1 A. A gentleman in a blue suit.

2 MR. PAIGE: Your Honor, I ask that the record
3 reflect the identification of the Defendant Gelean Mark.

4 THE COURT: Okay. The record will reflect
5 Defendant Mark has been identified by the witness.

6 BY MR. PAIGE:

7 Q. Mr. Isaac, do you know a person by the name of
8 Jerome Blyden?

9 A. Yes.

10 Q. When did you first meet Mr. Blyden?

11 A. '03, '04.

12 Q. Do you see Mr. Blyden in court today?

13 MR. MOORE: Objection, Your Honor. I believe
14 there's a -- objection, Your Honor.

15 THE COURT: All right. Overruled.

16 THE WITNESS: Yes.

17 BY MR. PAIGE:

18 Q. Will you please point him out and describe what
19 he's wearing, as well?

20 A. He's right behind of you. I think that's an orange
21 or a pink shirt.

22 MR. PAIGE: Your Honor, I ask that the record
23 reflect the identification of Defendant Jerome Blyden.

24 MR. MOORE: Your Honor, I object.

25 THE COURT: All right. The record will reflect

1 the witness has identified the Defendant Blyden.

2 BY MR. PAIGE:

3 Q. Mr. Isaac, how did you come to meet Mr. Blyden?

4 A. Mark sent him on a trip to me.

5 Q. Would that be Gelean Mark?

6 A. Yes.

7 Q. When was this?

8 MR. HODGE: Objection. Foundation.

9 THE COURT: Overruled.

10 THE WITNESS: I believe it was '04.

11 BY MR. PAIGE:

12 Q. What, if anything, did Mr. Mark say about sending
13 him to you?

14 A. He called me up one day, told me he sending his
15 bodyguard.

16 Q. And where were you living at the time?

17 A. North Carolina.

18 MR. MOORE: Your Honor, I object. And if Your
19 Honor would hear some more specific objections, but I'll
20 just object at this time.

21 THE COURT: What is your basis? I'm not asking
22 for a speaking objection, just asking for the basis. Is
23 it hearsay?

24 MR. MOORE: Bruton.

25 THE COURT: All right. Come to sidebar.

1 (Sidebar discussion held as follows)

2 THE COURT: All right. Just so counsel is
3 aware, speaking objections are the issue, not stating
4 your basis. You can always state your basis. So if you
5 think it's hearsay, you know, there's a confrontation
6 clause issue, just say it. Just, when it gets to be
7 three sentences or a paragraph, then sometimes there's
8 too much for the jury.

9 So what's the Bruton issue?

10 MR. MOORE: Your Honor, this gentleman
11 basically said that he met my client in 2003, then he
12 says it was on a trip in 2004. He's never laid eyes on
13 my client.

14 And the Bruton issue is when Mark says, "I'm
15 sending my bodyguard," and they're identifying
16 Mr. Blyden as the bodyguard, then if Mark is saying that
17 Mr. Blyden is the bodyguard, I can't cross-examine Mark.

18 He can say what Mark, what Mark said about Mark.
19 He can say what Mark did. He can say any number of
20 things.

21 But this becomes to, the situation where Mark is
22 saying some particular comments that implicate my client
23 as codefendant and my client has no way of refuting what
24 Mark said.

25 THE COURT: Yes. Well, I suspect there's some

1 more development. This is early in the testimony. I
2 suspect there's going to be some more development. But
3 if it is a coconspirator statement in furtherance of
4 drug trafficking, couldn't it come in as non-hearsay,
5 then?

6 MR. MOORE: My client's not -- there's no
7 testimony my client is involved in drug trafficking.

8 THE COURT: I know -- I understand your point.
9 I'm just saying it's early in the testimony.

10 I don't know yet what's coming in, so --

11 MR. MOORE: Well --

12 THE COURT: -- subject to connection; that is,
13 if there's more that's going to come in -- he's only
14 been on the stand for less than 10 minutes now. I
15 suspect he's probably got a little more to say. I don't
16 know what else they're going to say about Mr. Blyden.

17 But I think at some point, depending on what he
18 says, then the Court can make the appropriate Bourjaily
19 finding, which the Court is prepared to make with
20 respect to Mr. Mark, given the testimony of Springette
21 and Mr. Turnbull and Mr. Hodge.

22 The Court makes a finding that there's a
23 preponderance of the evidence that there was a
24 conspiracy, and that those several individuals,
25 including Mr. Mark, Mr. Hodge, Mr. Springette, and

1 Mr. Turnbull, were in a conspiracy. And there were a
2 few other names, which I can't recall just yet, but I
3 will at the appropriate time make the appropriate
4 finding. That's in accord with Bourjaily.

5 And I don't know what else is going to come in yet.
6 I appreciate your concern, though, Attorney Moore. And
7 if there is, if there is a failure to connect up, there
8 will be the appropriate instruction.

9 MR. MOORE: Thank you, Your Honor. There's
10 going to be a combination of hearsay, Crawford and
11 Bruton. So I --

12 THE COURT: So we're clear, I don't -- if you
13 get up, I generally can figure it out. If you say
14 "objection," we're good. If you say "objection" and
15 state the basis, it's even best. If it's not right on
16 point, I'll figure it out.

17 MR. HODGE: And Your Honor, just to clarify,
18 your finding is that there's, the evidence presented is
19 of a single conspiracy?

20 THE COURT: My finding is that, the finding
21 that's required under Bourjaily, that there's a
22 preponderance of the evidence that there was a
23 conspiracy at hand, and that those several people who I
24 named were members of the conspiracy. That would
25 include Mr. Mark.

1 Okay. Thank you.

2 (End sidebar discussion, open court as follows)

3 BY MR. PAIGE:

4 Q. Mr. Isaac, did Mr. Mark tell you why he was sending
5 Mr. Blyden to you?

6 A. He just told me he sending him to cool out.

7 Q. And approximately how long did he stay in North
8 Carolina?

9 A. Maybe a week.

10 MR. HODGE: Objection. Foundation.

11 THE COURT: Overruled.

12 BY MR. PAIGE:

13 Q. Mr. Isaac, have you ever had a business
14 relationship with Mr. Mark?

15 A. Yes.

16 Q. In what sense?

17 A. Dogfighting --

18 Q. Any other --

19 A. -- selling drugs.

20 Q. I'm sorry.

21 And when did this relationship begin as to these
22 activities?

23 A. '03.

24 Q. And how soon after your 2002 release from prison
25 did this begin?

1 A. In 2003.

2 Q. When were you released from prison?

3 A. November --

4 MR. HODGE: Objection. Asked and answered.

5 THE COURT: Sustained.

6 BY MR. PAIGE:

7 Q. Do you recall a month in which you began this
8 relationship?

9 A. In March '03.

10 Q. And how did that come about?

11 A. I flew down to St. Thomas.

12 Q. And what was the purpose of your trip?

13 A. Trying to get back in the swing of things.

14 Q. What do you mean when you say "swing of things"?

15 A. Selling drugs.

16 Q. Did you see Mr. Mark when you got here?

17 A. Yes.

18 Q. Where did you stay?

19 A. Sapphire.

20 Q. How long did you stay?

21 A. A week.

22 Q. Did you and Mr. Mark meet?

23 A. Every day.

24 Q. Did you discuss doing business, getting back in the
25 swing of things?

1 THE COURT: All right. You need to stop asking
2 leading questions.

3 Next question.

4 BY MR. PAIGE:

5 Q. What, if anything, was discussed?

6 A. I had some jewelry I was going to pawn for some
7 drugs.

8 Q. What, if any, agreement was made with regard to how
9 you would begin the swing of things?

10 A. Repeat your question.

11 Q. What, if any, agreement, particularly, was made as
12 to how you would get back into selling drugs?

13 A. Well, he told me he would get me back on my feet.

14 Q. Did he provide any specifics?

15 MR. HODGE: Objection. Leading.

16 THE COURT: Sustained.

17 BY MR. PAIGE:

18 Q. Did you and Mr. Mark make an arrangement as to how
19 you would begin selling drugs?

20 A. Yes.

21 Q. What, if any, arrangement was made?

22 A. When I came to visit, me and Mr. Mark talk about
23 how it was going to arrange getting drugs move from the
24 mainland to the U.S.

25 Q. "From the mainland to the U.S."?

1 A. St. Thomas.

2 Q. From St. Thomas to the U.S.

3 Did Mr. Mark provide any particulars?

4 MR. HODGE: Objection. Leading.

5 THE COURT: Sustained.

6 BY MR. PAIGE:

7 Q. What, if anything, in specific in that regard was
8 said by Mr. Mark?

9 A. Can you repeat your question?

10 Q. What, if any, specifics were given by Mr. Mark as
11 it relates to getting drugs from St. Thomas to the
12 mainland?

13 A. Yes.

14 Q. I'm sorry?

15 THE COURT: It's not a yes or no question.

16 That response is stricken. Next question.

17 BY MR. PAIGE:

18 Q. What, if any, specifics were given by Mr. Mark as
19 regard to moving drugs from St. Thomas to the mainland?

20 A. I were going to receive some drugs from another
21 individual from New York.

22 Q. How would those drugs get to New York?

23 A. By commercial plane.

24 Q. From where?

25 MR. HODGE: Objection. Relevance.

1 THE COURT: Overruled.

2 BY MR. PAIGE:

3 Q. From where?

4 A. Out of St. Croix.

5 MR. HODGE: Objection. Relevance.

6 THE COURT: Overruled.

7 BY MR. PAIGE:

8 Q. Was St. Thomas involved in that arrangement, too?

9 MR. HODGE: Objection. Leading.

10 THE COURT: Sustained.

11 BY MR. PAIGE:

12 Q. Did you receive any drugs from Mr. Mark from
13 anywhere other than St. Croix?

14 A. Yes.

15 Q. And where was that?

16 A. From both islands, St. Thomas and St. Croix.

17 Q. How soon after your trip here to St. Thomas did
18 this arrangement begin?

19 A. Maybe two months after.

20 Q. Mr. Isaac, was there an organizational structure as
21 to how this would come about?

22 A. Yes.

23 MR. PAIGE: I would like to show you what's
24 been marked as Government's Exhibit 27B.

25 (Government's Exhibit No. 27B marked)

1 BY MR. PAIGE:

2 Q. Do you recognize Government's Exhibit 27B?

3 A. Yes.

4 Q. What do you recognize this as?

5 A. Organization chart.

6 Q. Have you seen this chart before?

7 A. Yes. I drew it.

8 Q. Would this chart aid you in your testimony today,
9 to clarify exactly how these arrangements were made
10 between you and Mr. Mark?

11 A. Repeat one more time.

12 Q. Would this aid you in your testimony today?

13 A. Yes.

14 MR. PAIGE: Your Honor, I offer Government's
15 Exhibit 27B for admission.

16 MR. HODGE: Objection, Your Honor.

17 THE COURT: Attorney Moore?

18 MR. MOORE: I join the objection.

19 THE COURT: All right. I'll take it under
20 advisement.

21 BY MR. PAIGE:

22 Q. Mr. Isaac, how often would you receive drugs from
23 Mr. Mark from St. Thomas?

24 A. Twice a week -- twice a month. I'm sorry.

25 Q. Approximately how much would come with each

1 shipment?

2 A. Ten kilos per trip.

3 Q. Ten kilos of what?

4 A. Cocaine.

5 Q. Were you selling this cocaine?

6 A. Yes.

7 Q. What were you selling the cocaine for?

8 A. 22,000.

9 Q. 22,000 --

10 A. Apiece.

11 Q. 22,000 a kilo?

12 A. Yes.

13 Q. How long did it take you to sell each kilo, or each
14 load, rather?

15 MR. HODGE: Objection. Relevance.

16 THE COURT: Sustained.

17 BY MR. PAIGE:

18 Q. How much of the \$22,000 did you keep?

19 A. 2,000 per key.

20 Q. And where did the rest of the money go?

21 A. Send it back down to St. Thomas, to Mark.

22 Q. What method did you use to do that?

23 A. Pack it in a suitcase and give it to a female
24 courier.

25 Q. During the year 2000, approximately how many kilos

1 of cocaine did Gelean Mark ship to you, to the mainland?

2 MR. HODGE: Objection.

3 THE COURT: Sustained.

4 BY MR. PAIGE:

5 Q. During the year 2003, did Gelean Mark send
6 quantities of cocaine to you?

7 MR. HODGE: Objection. Leading.

8 THE COURT: Sustained.

9 BY MR. PAIGE:

10 Q. Mr. Isaac, who would you get the kilos of cocaine
11 from, person?

12 MR. HODGE: Objection.

13 THE COURT: Which kilos?

14 MR. PAIGE: Any that he received during this
15 period of time.

16 MR. HODGE: Objection.

17 THE COURT: Which period of time?

18 MR. PAIGE: Particularly the year 2003.

19 THE COURT: Overruled.

20 THE WITNESS: My first two time was an
21 individual I met in New York.

22 BY MR. PAIGE:

23 Q. Who was the individual in New York?

24 MR. HODGE: Objection. Relevance.

25 THE COURT: Overruled.

1 THE WITNESS: Dorian Swan.

2 BY MR. PAIGE:

3 Q. Do you have any personal knowledge as to who Dorian
4 Swan got the kilos of cocaine from?

5 MR. HODGE: Objection. Relevance.

6 THE COURT: Overruled.

7 THE WITNESS: Yes. Gelean Mark.

8 THE COURT: How is it that you --

9 MR. HODGE: Objection. Foundation.

10 THE COURT: How is it that you know this?

11 THE WITNESS: Mark told me.

12 THE COURT: All right.

13 BY MR. PAIGE:

14 Q. During the year 2003, did you receive any other
15 kilos of cocaine from Dorian Swan?

16 A. Only two times.

17 Q. How many were on the first time?

18 A. The first time I received two kilos.

19 Q. And how about --

20 A. No, the first time I only received a half a kilo.
21 And the second time I was supposed to receive four. I
22 only got two.

23 Q. Do you have any personal knowledge as to where
24 Dorian Swan got the second shipment of cocaine from?

25 A. Yes.

1 MR. HODGE: Objection. Foundation.

2 THE COURT: Overruled.

3 THE WITNESS: Gelean Mark.

4 THE COURT: How is it that you know?

5 THE WITNESS: He told me.

6 THE COURT: Who is "he"?

7 THE WITNESS: Gelean Mark.

8 BY MR. PAIGE:

9 Q. How about the year 2004; did you receive any
10 quantities of cocaine from Gelean Mark?

11 MR. HODGE: Objection. Leading.

12 THE COURT: Sustained.

13 Rephrase.

14 BY MR. PAIGE:

15 Q. During the year 2004, did you receive any
16 quantities of cocaine by commercial air flight?

17 MR. HODGE: Objection. Leading.

18 THE COURT: Sustained.

19 BY MR. PAIGE:

20 Q. During the year 2004, did you receive any kilograms
21 of cocaine?

22 MR. HODGE: Objection. Leading.

23 THE COURT: Sustained.

24 BY MR. PAIGE:

25 Q. How long did your business relationship with Gelean

1 Mark last?

2 A. Until 2005.

3 Q. Was this a regular and consistent relationship,
4 drug-wise, with him?

5 A. Yes.

6 Q. Was it on a monthly basis?

7 MR. HODGE: Objection. Leading.

8 THE COURT: Sustained. Come to sidebar.

9 (Sidebar discussion held as follows)

10 THE COURT: All right. Attorney Paige, I --
11 this is your, your witness and you're on direct,
12 correct?

13 MR. PAIGE: That's correct.

14 THE COURT: All right. It seems that the
15 witness is on direct, is normally someone who tells,
16 relays a series of events. And I think we're getting a
17 number of objections. I think Attorney Hodge is
18 objecting appropriately, everything that's a leading
19 question, and in some instances he hasn't objected to
20 matters that are leading questions.

21 If you're asking a question where all the witness
22 has to do is stay there and say, "Yes," "yes," "yes,"
23 you've suggested the answer in the question, which means
24 it is a leading question.

25 And I guess for some introductory purposes it may

1 be permissible. But as a general matter, leading
2 questions are impermissible. So I expect that there are
3 going to be continuous objections from Attorney Hodge if
4 you continue along that line.

5 So let's see if we can make this testimony go
6 through a little more expeditiously.

7 Thank you, Counsel.

8 MR. HODGE: Thank you, Your Honor.

9 (End sidebar discussion, open court as follows)

10 BY MR. PAIGE:

11 Q. Who, if anyone, during the year 2003 did you
12 receive kilograms of cocaine from?

13 A. Physically?

14 Q. Yes.

15 A. From guys who brought the drugs up.

16 Q. Do you have personal knowledge as to who those guys
17 were?

18 A. A first-name basis, no, I didn't know who they was.

19 Q. Do you have any personal knowledge of -- well, you
20 said not on a first-name basis. What, you knew
21 nicknames, only?

22 A. Yeah.

23 MR. PAIGE: Court's indulgence one second,
24 please?

25 THE COURT: Yes.

1 (Pause)

2 BY MR. PAIGE:

3 Q. You said you wouldn't know on a first-name basis.
4 Who said it?

5 MR. HODGE: Objection. Leading.

6 THE COURT: Overruled.

7 THE WITNESS: Who would send the couriers
8 were --

9 MR. HODGE: Objection. Foundation.

10 THE COURT: If he knows.

11 THE WITNESS: Henry Freeman.

12 BY MR. PAIGE:

13 Q. Do you know who would send Henry Freeman?

14 MR. HODGE: Objection. Foundation.

15 THE WITNESS: No.

16 THE COURT: Okay. Overruled.

17 MR. HODGE: Your Honor, move to strike.

18 THE COURT: Denied.

19 BY MR. PAIGE:

20 Q. Who was Henry Freeman?

21 A. He was part of the organization.

22 Q. Who did he work for?

23 A. Gelean Mark.

24 MR. HODGE: Objection. Foundation.

25 THE COURT: How is it that you know this?

1 THE WITNESS: Mark told me.

2 BY MR. PAIGE:

3 Q. And for what period of time did he send you
4 cocaine?

5 THE COURT: Who is "he"?

6 MR. PAIGE: The Henry Freeman.

7 THE COURT: Did Henry Freeman send, that's what
8 you're asking?

9 MR. PAIGE: Yes.

10 THE COURT: All right.

11 MR. HODGE: Objection. Leading.

12 THE COURT: Overruled.

13 BY MR. PAIGE:

14 Q. For what period of time did Henry Freeman send you
15 cocaine?

16 A. '03 until '05.

17 Q. Who, if anyone, sent the cocaine to him during that
18 period?

19 MR. HODGE: Objection. Foundation.

20 THE COURT: Sustained.

21 BY MR. PAIGE:

22 Q. Do you have any personal knowledge as to who he got
23 his cocaine from during that period of time?

24 THE COURT: Mr. Isaac, it's a yes or no
25 question.

1 Do you understand?

2 THE WITNESS: Yes.

3 THE COURT: All right. Answer the question.

4 BY MR. PAIGE:

5 Q. Do you have personal knowledge?

6 A. Yes.

7 Q. And how do you have that personal knowledge?

8 A. Because Mark told me.

9 Q. During that period of time, during the year 2003,
10 approximately how many kilograms did he, being Henry
11 Freeman, send you?

12 MR. HODGE: Objection.

13 THE COURT: Overruled.

14 THE WITNESS: '03, maybe about 50 or more.

15 BY MR. PAIGE:

16 Q. During the year 2004, approximately how many
17 kilograms of cocaine did he, being Henry Freeman, send
18 you?

19 MR. HODGE: Objection. Leading.

20 THE COURT: Overruled.

21 THE WITNESS: Over 100.

22 BY MR. PAIGE:

23 Q. In the year 2005, approximately how many kilograms
24 of cocaine did Henry Freeman send you?

25 MR. HODGE: Objection.

1 THE COURT: Overruled.

2 THE WITNESS: That year it was under a hundred.

3 BY MR. PAIGE:

4 Q. When did your drug dealing end?

5 A. Repeat.

6 Q. When did you -- when did this arrangement end?

7 A. Right after --

8 MR. HODGE: Objection. Asked and answered.

9 THE COURT: Sustained.

10 BY MR. PAIGE:

11 Q. At some point, did this arrangement end?

12 MR. HODGE: Objection. Asked and answered.

13 THE COURT: Sustained.

14 BY MR. PAIGE:

15 Q. What, if any, forms of communications did you have
16 with Gelean Mark?

17 A. We talked about dogs and our drug activity.

18 Q. Would this be by phone, or in person?

19 A. Both.

20 Q. What, if any, other forms of communication did you
21 have with Mr. Mark?

22 A. Letter.

23 MR. PAIGE: I would like to show you what's
24 been marked as Government's Exhibit 24A, and I ask you
25 if you recognize it.

1 I'm sorry, that's 24B.

2 (Government's Exhibit No. 24B marked)

3 BY MR. PAIGE:

4 Q. Do you recognize Government's Exhibit 24B?

5 A. Yes.

6 MR. HODGE: Objection. Relevance.

7 THE COURT: Overruled.

8 BY MR. PAIGE:

9 Q. What do you recognize Exhibit 24B to be?

10 A. A letter from Mark.

11 Q. And who is it to?

12 A. To me.

13 Q. I believe this is -- you -- what is the date of
14 this letter?

15 A. November 30th, '05.

16 MR. PAIGE: Your Honor, this is a multiple-page
17 document. May I approach the witness with the letter?

18 THE COURT: How many pages is it?

19 MR. PAIGE: One moment, Judge.

20 THE COURT: Can you just scroll through the
21 pages using the Elmo, or the presentation?

22 MR. PAIGE: It's a three-page document.

23 BY MR. PAIGE:

24 Q. Now, how do you know this is a letter that was sent
25 to you from Mr. Mark?

1 A. Because I give him my fiancée address to send
2 letters to.

3 Q. Is it in the same condition as it was when you,
4 when he first sent it?

5 A. Yes.

6 MR. HODGE: Objection. Foundation.

7 THE COURT: Overruled.

8 BY MR. PAIGE:

9 Q. Any changes, alterations or deletions to it?

10 A. No.

11 Q. You'll see there are portions -- look at it closer.
12 Are there any alterations at all?

13 MR. HODGE: Objection. Leading.

14 THE COURT: Overruled.

15 BY MR. PAIGE:

16 Q. I'm sorry, sir?

17 MR. HODGE: Objection. Asked and answered.

18 THE WITNESS: It got some -- I guess --

19 THE COURT: Overruled.

20 THE WITNESS: It got, it got some black
21 mark-outs.

22 BY MR. PAIGE:

23 Q. But outside of that, it's the same letter?

24 A. Yes.

25 MR. PAIGE: Your Honor, I offer for admission

1 Government's Exhibit 24B.

2 MR. HODGE: Your Honor --

3 THE COURT: Mr. Hodge?

4 MR. HODGE: Your Honor, I object. There's been
5 no testimony to provide a foundation for why he would
6 know where that came from.

7 THE COURT: All right.

8 Attorney Moore?

9 MR. MOORE: I join co-counsel's objection.

10 THE COURT: All right. Exhibit 24B is
11 admitted.

12 (Government's Exhibit No. 24B admitted)

13 MR. PAIGE: I would like to publish
14 Exhibit 24B.

15 THE COURT: Let me see counsel briefly at
16 sidebar.

17 (Sidebar discussion held as follows)

18 THE COURT: All right. There are some
19 redactions on this. So the record is clear, why are
20 there redactions, and is defense aware of the reason for
21 the redactions?

22 MR. PAIGE: Your Honor, the redactions are just
23 unrelated issues that are irrelevant to the charges. So
24 out of an abundance of caution, it was redacted for that
25 purpose.

1 THE COURT: Okay. Well, the second question
2 is: Are defense counsel aware of the redactions, and do
3 they have an unredacted version?

4 MR. PAIGE: They have had access -- we have the
5 original, and it's been on our exhibit list, the
6 original form and the redacted form.

7 THE COURT: My question isn't whether you have
8 it on your list. My question is whether you've provided
9 it to defense.

10 Does defense have the --

11 MR. PAIGE: Yes, they have it.

12 MR. MOORE: But not unredacted.

13 THE COURT: You do not have an original copy?

14 MR. MOORE: We have the --

15 (Counsel conferring)

16 MR. MOORE: So the -- we have the redacted and
17 unredacted?

18 MR. LINDQUIST: Yes.

19 MR. MOORE: Okay.

20 THE COURT: Now, normally in these
21 circumstances, before it's published there's usually
22 some agreement on the redacted portion. Has there been
23 an effort to reach that agreement.

24 Are the parts that are redacted agreed upon by both
25 sides?

1 MR. HODGE: No, I don't think we discussed the
2 redaction.

3 THE COURT: That is, what is the -- he's
4 identified a certain document, and as I understand it
5 there are portions that have been redacted. He's
6 mentioned it. It's obvious from what's been presented.

7 What is it that's redacted?

8 Is it a reference to some crime, term of
9 imprisonment, or what is it?

10 MR. PAIGE: Your Honor, I can't specify. It's
11 only three letters, but it's just unrelated to this
12 indictment.

13 MR. LINDQUIST: I can -- I can add a little
14 more. Generally speaking, the portions that were
15 unredacted, for example, where Mr. Isaac is in jail.
16 He's receiving these letters in jail. So there's
17 references to lawyers and cases and so forth -- excuse
18 me.

19 But in any event, there's references to lawyers and
20 cases and so forth, that would be potentially 403. We
21 went through and looked for 403 items.

22 THE COURT: All right. All right. Well, the
23 defense has a complete copy. So if they wish to attempt
24 to introduce that -- but usually we obviate the need for
25 a conflict, if there's some agreement.

1 But if that can't be accommodated, then the defense
2 in its cross can bring in the, or attempt to bring in
3 the other, the entire document, if it's not otherwise
4 objectionable, which I haven't reached that issue yet.
5 So.

6 MR. HODGE: In the interest of that, could we
7 take a moment to review the unredacted version, so we
8 can tell what's been pulled out?

9 THE COURT: Sure, you can do that. I think
10 what we're going to do, though, is proceed with the
11 examination.

12 You can do that.

13 The government doesn't have to introduce the entire
14 document.

15 MR. HODGE: Okay.

16 THE COURT: But in order so we don't have the
17 conflicting documents in there, a full one, if the Court
18 finds the redacted portions are unobjectionable and it's
19 redacted, then I encourage the parties to discuss that.

20 MR. HODGE: Thank you.

21 THE COURT: You can look at it. And I suspect
22 lunch will be here soon, and we'll have another break
23 before we get too much further into this.

24 MR. HODGE: Can I add one thing, Your Honor?

25 Is the foundation at this point -- I understand

1 that there's no signature of my client on that letter,
2 and I understand that this witness hasn't testified that
3 he recognized my client's handwriting; but rather that
4 he had given my client his, what was his ex-wife or
5 girlfriend's address, and therefore this is his letter.
6 Is that the foundation?

7 THE COURT: I can't -- it sounds like you're
8 asking for an advisory, but --

9 MR. HODGE: Well, I understand -- I objected on
10 foundational grounds --

11 THE COURT: No, your objection is on the
12 record.

13 Okay. Thank you.

14 (End sidebar discussion, open court as follows)

15 THE COURT: Go ahead, Counsel.

16 BY MR. PAIGE:

17 Q. Mr. Isaac, do you see the letter in front of you?

18 A. Yes.

19 Q. What is this -- when did you receive this letter?

20 A. Where did I receive it?

21 Q. Yes.

22 A. In North Carolina.

23 Q. What was the date of the letter?

24 A. November the 30th, '05.

25 Q. Can you -- you can use the laser pointer there in

1 front of you. You can indicate on the screen.

2 A. What you want me point at?

3 Q. The date.

4 A. (Indicating)

5 Q. Okay. Now this letter, what does this letter
6 reference?

7 What is it talking about?

8 A. If you enlarge it.

9 MR. HODGE: Objection, Your Honor. The
10 document speaks for itself.

11 THE COURT: Overruled.

12 BY MR. PAIGE:

13 Q. What was Mr. Mark conveying to you in this letter?

14 MR. HODGE: Objection, Your Honor. Calls for
15 speculation.

16 THE COURT: Overruled.

17 THE WITNESS: If this was the first letter,
18 this was talking about dogs.

19 BY MR. PAIGE:

20 Q. In what context?

21 MR. HODGE: Objection, Your Honor.

22 THE COURT: Overruled.

23 THE WITNESS: He wanted me to send him some dog
24 journals. Basically, you know, we're just talking about
25 dogs.

1 MR. PAIGE: Okay. I would like to show you
2 what's been marked also as Government's
3 Exhibit 24B [sic], and ask you if you recognize it --

4 THE COURT: Isn't -- didn't we just show 24B?

5 MR. PAIGE: 25B now.

6 THE COURT: All right.

7 (Government's Exhibit No. 25B marked)

8 BY MR. PAIGE:

9 Q. Do you see Government's Exhibit 25B?

10 A. Yes.

11 Q. What is this?

12 A. A letter.

13 Q. Who is this letter to?

14 A. Can you enlarge it a little bit?

15 MR. PAIGE: Sure.

16 THE WITNESS: This letter was to me.

17 BY MR. PAIGE:

18 Q. Have you seen this letter before?

19 MR. HODGE: Objection. Foundation.

20 THE COURT: Overruled.

21 THE WITNESS: Yes.

22

23 BY MR. PAIGE:

24 Q. What's the date of the letter?

25 A. December the 28th, '05.

1 Q. Who sent you this letter?

2 MR. HODGE: Objection. Relevance.

3 THE COURT: Overruled.

4 THE WITNESS: Gelean Mark.

5 BY MR. PAIGE:

6 Q. This letter --

7 MR. HODGE: Objection. Foundation.

8 BY MR. PAIGE:

9 Q. Is this letter in the same condition as it was --

10 THE COURT: Overruled.

11 BY MR. PAIGE:

12 Q. -- as when you first received it?

13 A. No.

14 Q. And what are the differences, if any?

15 A. It got some black shaded areas inside the letter.

16 Q. Outside of that, is it in the same condition that
17 it was when you received it?

18 A. Yes.

19 MR. PAIGE: Let's see, how many page document
20 this letter is. Okay, this is a one-page document.

21 Your Honor, I move for admission of Government's
22 Exhibit 25B.

23 MR. HODGE: I object.

24 MR. MOORE: Your Honor, I object to the
25 document as well.

1 THE COURT: Sustained.

2 BY MR. PAIGE:

3 Q. Generally speaking, what is this letter about?

4 A. About dogs.

5 MR. PAIGE: I move for the admission of 25B.

6 MR. HODGE: Object.

7 THE COURT: Same ruling.

8 BY MR. PAIGE:

9 Q. Mr. Isaac, who did you receive this letter from?

10 MR. HODGE: Objection. Asked and answered.

11 THE COURT: Sustained.

12 BY MR. PAIGE:

13 Q. How did you know Mr. Mark was the source of this
14 letter?

15 A. Because I get it out of my mailbox, my fiancée's
16 mailbox.

17 Q. Is there anything else about this --

18 MR. HODGE: Move to strike, Your Honor.

19 THE COURT: Overruled.

20 BY MR. PAIGE:

21 Q. Anything else about the letter that tells you it's
22 from Mr. Mark?

23 A. His handwriting.

24 Q. Were you familiar with Mr. Mark's handwriting at
25 the time you received this letter?

1 A. Yes.

2 MR. PAIGE: Your Honor, I move --

3 MR. HODGE: Objection. Foundation.

4 THE COURT: Overruled.

5 MR. PAIGE: Move for admission of Government's
6 Exhibit 25B.

7 THE COURT: Attorney Hodge?

8 MR. HODGE: Objection.

9 MR. MOORE: Your Honor, relevance and 403.

10 THE COURT: All right. I'll take it under
11 advisement.

12 MR. PAIGE: I would like to show you what's
13 marked as Government's Exhibit 26B. It's a one-page
14 document.

15 (Government's Exhibit No. 26B marked)

16 BY MR. PAIGE:

17 Q. Do you recognize Government's Exhibit 26B?

18 A. Yes. It's a letter.

19 Q. Who is it from?

20 A. Can you enlarge it a little bit?

21 Q. Do you recognize it?

22 A. This has my initial, and a signature --

23 Q. What is the -- when did you -- who did you receive
24 this letter from?

25 MR. HODGE: Objection. Asked and answered.

1 THE COURT: Overruled.

2 THE WITNESS: From Gelean Mark.

3 MR. HODGE: Objection. Foundation.

4 BY MR. PAIGE:

5 Q. How do you know, how do you know Mr. --

6 THE COURT: Overruled.

7 BY MR. PAIGE:

8 Q. -- Mark was the source of this letter?

9 A. Because he told me that he was writing me and he's
10 going to send me a letter.

11 MR. HODGE: Objection.

12 BY MR. PAIGE:

13 Q. Is it in the same condition as it was when you
14 received it?

15 A. No.

16 Q. What are the differences?

17 A. Black shaded areas.

18 Q. Outside of that, are there any changes or
19 alterations to it?

20 A. Can you enlarge it a little more?

21 No.

22 MR. HODGE: Objection. Leading.

23 BY MR. PAIGE:

24 Q. Anything else about the letter itself that let you
25 know that the source was Gelean Mark?

1 MR. HODGE: Objection. Leading.

2 THE COURT: Overruled.

3 THE WITNESS: Yes, because we talk about dogs
4 that we own.

5 MR. PAIGE: Your Honor, I move for admission of
6 Government's Exhibit 26B.

7 MR. HODGE: Objection. In addition to the
8 issues raised before, the date, Your Honor.

9 THE COURT: All right. It's under advisement.

10 MR. MOORE: I join the objection.

11 BY MR. PAIGE:

12 Q. Okay. Mr. Isaac --

13 MR. MOORE: I join the previous objection with
14 the 403 and the relevance.

15 BY MR. PAIGE:

16 Q. Mr. Isaac, what, if any, personal knowledge did you
17 have with Mr. Gelean Mark participating in dogfighting?

18 MR. HODGE: Objection. Foundation.

19 THE COURT: Overruled.

20 THE WITNESS: I introduced him into
21 dogfighting.

22 BY MR. PAIGE:

23 Q. When was this?

24 A. Around '96, '97.

25 Q. How did you introduce him?

1 MR. HODGE: Objection. Relevance.

2 THE COURT: Overruled.

3 BY MR. PAIGE:

4 Q. How did you introduce him to dogfighting?

5 A. Well, he used to come and visit, visit Everett
6 Mills in North Carolina.

7 Q. Who is Everett Mills?

8 A. A friend of ours, who is a part in the
9 organization.

10 Q. What, if anything, did you do in particular to
11 introduce him into dogfighting?

12 A. I teach him about pedigrees and bloodline.

13 Q. Did you do anything else specifically to introduce
14 him besides teaching him.

15 MR. HODGE: Objection. Leading.

16 THE COURT: Sustained.

17 BY MR. PAIGE:

18 Q. What, if anything, else did you do to introduce him
19 specifically --

20 MR. HODGE: Objection. Leading.

21 MR. PAIGE: -- to dogfighting?

22 THE COURT: Rephrase your question.

23 BY MR. PAIGE:

24 Q. What, if anything, else besides teaching him, did
25 you do to introduce him into dogfighting?

1 MR. HODGE: Objection. Leading.

2 THE COURT: Sustained.

3 BY MR. PAIGE:

4 Q. Do you have any personal knowledge of Mr. Mark
5 dogfighting?

6 A. Yes.

7 Q. How do you have that personal knowledge?

8 A. This is an activity me and Mark was doing together,
9 fighting dogs, breeding, selling, selling dogs.

10 Q. You said selling dogs. Did you ever have the
11 occasion to sell him a dog?

12 A. Repeat.

13 Q. Did you ever have the occasion to sell him a dog?

14 THE COURT: Counsel, are you relating this to a
15 certain period of time, or are you saying if ever this
16 happened?

17 BY MR. PAIGE:

18 Q. From the years of 1998 to '99, did you sell Mr. --

19 MR. HODGE: Objection, Your Honor. Relevance.

20 THE COURT: Overruled.

21 BY MR. PAIGE:

22 Q. During the period of 1998 to 1999, did you sell
23 Mr. Mark a dog?

24 A. I sell him several dogs.

25 Q. How much did you sell him the dogs for?

1 MR. HODGE: Objection. Relevance.

2 THE COURT: Overruled.

3 THE WITNESS: He purchased like five dogs I
4 sold him, for like \$2,000.

5 BY MR. PAIGE:

6 Q. Have you ever attended any dogfights with Mr. Mark?

7 MR. HODGE: Objection. Asked and answered.

8 THE COURT: I think we've covered that. He
9 says he has.

10 BY MR. PAIGE:

11 Q. Approximately how many dogfights have you been to
12 with Mr. Mark?

13 MR. HODGE: Objection. Asked and answered.

14 MR. MOORE: Your Honor, we object --

15 THE COURT: Overruled.

16 MR. MOORE: We object on -- we're awaiting a
17 ruling related to part of that.

18 THE COURT: All right.

19 BY MR. PAIGE:

20 Q. When did you -- when did you attend a dogfight with
21 Mr. Mark?

22 MR. MOORE: Your Honor, it's the jurisdictional
23 issue.

24 THE COURT: All right. What period are you
25 talking about?

1 Are you just asking generally?

2 BY MR. PAIGE:

3 Q. Between the period --

4 THE COURT: Why don't you direct the witness to
5 a period.

6 BY MR. PAIGE:

7 Q. During the period of 2002 to 2005, did you attend
8 any dog --

9 THE COURT: Come to sidebar.

10 (Sidebar discussion held as follows)

11 THE COURT: All right. While there are
12 sometimes objections and sometimes a basis, it might be
13 leading, it's not necessarily that the Court is ruling
14 or sustaining the objection for leading. It's probably
15 a 403.

16 The reason that the Court is ruling on some of
17 those -- I think Attorney Hodge has been making
18 foundation and leading objections. That's not
19 necessarily the basis. In some instances, it's 403.

20 Now with respect to this, I think the reason that
21 Attorney Moore is objecting and raising the
22 jurisdictional -- not so much a jurisdictional, a
23 subject matter jurisdiction issue, I think he's raising
24 more the issue of the BVI, and that dogfighting.

25 Is that why you're raising this objection?

1 MR. MOORE: Or in North Carolina, Your Honor.

2 THE COURT: All right. Well, with respect to--

3 MR. HODGE: I would say the same is true as to
4 North Carolina, Your Honor.

5 THE COURT: All right. With respect to the BVI
6 issue, the Court's going to rule on that shortly. So --
7 in fact, I -- my ruling is going -- is that the
8 reference to the BVI dogfighting, that's going to be
9 stricken.

10 And the jury is going to be so instructed.

11 I think the evidence on the record is that he
12 attended a dogfight with a witness who testified here in
13 court. The witness, I think it was Damian Daniel.

14 MR. LINDQUIST: Damian Daniel.

15 THE COURT: Damian Daniel indicated that the
16 dog lost. Mr. Mark walked away with the dog. The
17 witness heard a shot. Mr. Mark came back without the
18 dog. And the witness said that the dog was shot, and
19 also said that he did not see any dog being shot.

20 Witnesses aren't permitted to argue or to make
21 inferences. They testify based on fact, that is, things
22 that they observe, they do. That witness was not
23 testifying based on that.

24 Significantly, the charge here is betting on
25 dogfighting or the racketeering activity. And while it

1 is true that legal activity may serve as evidence of
2 racketeering crimes, there hasn't been, at least at this
3 point, the connecting up that would indicate that this
4 is connected to dogfighting for bet, I think, as the
5 statute is worded.

6 So the Court, in thinking about this, was
7 considering if someone is involved in illegal, running a
8 brothel in the Virgin Islands, the fact that they might
9 go to Reno, Nevada, where it is permissible to --

10 MR. HODGE: Partake?

11 THE COURT: -- engage in the things that are
12 offered at these places, or if they went to Amsterdam,
13 isn't necessarily proof that the person is running or
14 promoting or doing something in the Virgin Islands, just
15 because they happen to go to a place where it may or may
16 not be legal.

17 So the Court's inclined to strike that.

18 Now I said that there hasn't been any connecting
19 up.

20 The Court's concern, though, and the reason why the
21 Court is inclined to make the ruling after the next
22 break and instruct the jury, is because I don't want so
23 much time to go by and waiting for some connecting up of
24 the evidence. It hasn't happened to this point.

25 I, you know I'll wait until the end of this

1 testimony, until our next break, but the Court's
2 inclination is to strike it. But, so that's sort of a
3 related matter.

4 But I think it, it provided the jumping point for
5 the Court, based on Attorney Moore's objection to what I
6 think is an open-ended question, "Did you ever attend
7 any dogfights?"

8 The crime charged, as I understand it certainly
9 with the dogfighting, I think it's limited to a certain
10 period of time. And I don't know, with an open-ended
11 question, what this witness is going to say, if he's
12 going to talk about something from the beginning of time
13 through yesterday. I don't know if he's going to talk
14 about the BVI.

15 So I think for those purposes, and to obviate the
16 need for some correction later, I think you -- it would
17 behoove you to narrow the scope of your questioning.
18 And I think --

19 MR. LINDQUIST: Could I just -- could I just
20 add something with regard to the jurisdictional issue --

21 THE COURT: Yes.

22 MR. LINDQUIST: -- for the record?

23 And using the analogy that the Court used, if two
24 individuals are running a brothel in the Virgin Islands,
25 and it's illegal, evidence that the same two individuals

1 are running a brothel in Amsterdam, where it's legal, is
2 still relevant to show the enterprise of running
3 brothels as it pertains to the Virgin Islands.

4 The legality is irrelevant. It's still relevant to
5 show -- now I will candidly admit, if the evidence
6 consists of two individuals running a brothel in the
7 Virgin Islands, and the proffered evidence is those two
8 individuals visiting a brothel in Amsterdam, that would
9 not be relevant.

10 But if the -- if what is taking place in Amsterdam
11 is significantly what is taking place in the Virgin
12 Islands, which has been charged and is illegal, the
13 Amsterdam information is relevant to prove the
14 enterprise.

15 THE COURT: Well, I understand your position.
16 I'm not persuaded by it.

17 Attending a dogfight in -- or let's use Amsterdam.
18 Attending a brothel in Amsterdam and using the services
19 there doesn't necessarily provide proof that someone is
20 running a brothel in the Virgin Islands.

21 Attending a dogfight in the BVI and even doing
22 something that doesn't -- it could serve as some indicia
23 that the person is running, for bet, a dogfight in the
24 Virgin Islands, which is against Virgin Islands law; but
25 it doesn't necessarily prove it.

1 And like I said, up to this point it hasn't been
2 something to draw what took place in the BVI, draw that
3 in and serve as some competent evidence for what is
4 charged here and that occurred in the Virgin Islands.

5 Moreover, from a 403 perspective, I think what we
6 have here is evidence that Mr. Mark attended a dogfight
7 in Tortola, and that at the end of the fight a dog lost
8 the fight, and I think there's been enough to, certainly
9 I think a juror could infer, based on the definitive
10 testimony of Mr. Damian Daniel, that the dog was shot,
11 that Mr. Mark shot the dog.

12 MR. LINDQUIST: I understand.

13 THE COURT: I think on the prejudicial part, I
14 think that's what we have here. And I don't want the
15 jury going in and holding something against Mr. Mark,
16 because they think he's a dog killer, which may or may
17 not be the case. The Court doesn't have an opinion one
18 way or the other. But that's not what this case is
19 about.

20 MR. LINDQUIST: I don't dispute that issue.
21 It's just the other one --

22 MR. HODGE: Is Your Honor's ruling --

23 THE COURT: Let's end this now. We need to
24 move on.

25 MR. HODGE: Does Your Honor's ruling extend to

1 the allegations of -- guys?

2 THE COURT: Let's...

3 (End sidebar discussion, open court as follows)

4 THE COURT: All right. Go ahead.

5 The objection is sustained.

6 BY MR. PAIGE:

7 Q. Mr. Isaac, did you attend any dogfights during the
8 years of 2002 and 2005 with Mr. Mark in the Virgin
9 Islands?

10 MR. HODGE: Objection. Leading.

11 THE COURT: Overruled.

12 THE WITNESS: 2003, 2004, 2005.

13 BY MR. PAIGE:

14 Q. Where was that? Where on St. Thomas?

15 A. At the farm, Bordeaux. We even went over to
16 Tortola --

17 Q. No, no. I said in the Virgin Islands.

18 A. Oh. Okay.

19 Q. In St. Thomas.

20 A. Okay. I'm sorry.

21 MR. HODGE: Move to strike. Move to strike.

22 THE COURT: All right. Sustained.

23 The jury will disregard that last part of the
24 response with respect to Tortola.

25 Go ahead.

1 BY MR. PAIGE:

2 Q. Do you have any personal knowledge whether or not
3 there was gambling on -- at the dog fight that you
4 attended at the farm?

5 A. Yes.

6 Q. How do you have that personal knowledge?

7 A. We fought a dog -- if we fight a dog, we bet money
8 on the dog.

9 Q. Now --

10 THE COURT: When you say "we," who are you
11 talking about?

12 THE WITNESS: Me, Mark and the opposing
13 fighter.

14 BY MR. PAIGE:

15 Q. Now in this particular fight, whose dog was
16 fighting?

17 A. Our dog.

18 MR. HODGE: Objection, Your Honor. What are we
19 talking about?

20 THE COURT: Overruled.

21 Counsel, do you want to inquire of the witness, the
22 use of all these pronouns, "he," "we," "our."

23 BY MR. PAIGE:

24 Q. Whose dog was it?

25 A. Me and Gelean Mark.

1 MR. HODGE: Your Honor, could we have a date?

2 THE COURT: Okay. Overruled. You'll get a
3 chance to cross-examine.

4 Go ahead.

5 BY MR. PAIGE:

6 Q. How much were you and Gelean Mark gambling on this
7 dog on this fight?

8 A. Which fight?

9 Q. The one we're talking about 2004 at the farm.

10 A. We had so many at the farm, so I don't know which
11 fight you're talking about.

12 Q. The first one. Do you remember -- just give us
13 one, one particular one.

14 MR. HODGE: Objection, Your Honor.

15 THE COURT: All right. Rephrase your question.

16 BY MR. PAIGE:

17 Q. How many fights at the farm did you have, where you
18 and Gelean Mark's dog fought in 2004?

19 A. How many fights that we had at the farm?

20 Q. Yes.

21 A. We had several fights.

22 Q. In those several fights, what was the average purse
23 that was gambled?

24 MR. HODGE: Objection. Relevance.

25 THE COURT: Overruled.

1 THE WITNESS: One fight we had for 40,000.

2 BY MR. PAIGE:

3 Q. How about -- would you know the amount for the
4 second fight?

5 MR. HODGE: Objection. 403.

6 THE COURT: Overruled.

7 Rephrase your question.

8 I don't think that the witness said that what he
9 was talking about was the first fight, or any ordinal
10 series to any of them. He just gave an example of an
11 average before.

12 So the second fight wouldn't necessarily correspond
13 or -- to what he said before. He was responding to an
14 average question.

15 BY MR. PAIGE:

16 Q. Who was it --

17 THE COURT: Hold on one second.

18 (Pause)

19 (Court conferring)

20 THE COURT: All right. Go ahead.

21 BY MR. PAIGE:

22 Q. What were the various amounts that were bet?

23 A. A range from 5,000 and up.

24 Q. Up to what?

25 A. The largest purse was \$50,000.

1 MR. HODGE: Objection. Leading.

2 BY MR. PAIGE:

3 Q. How about in 2003. What were the varying amounts
4 that you fought in 2003?

5 A. Five, ten, in that range, in 2003, until --

6 Q. That's number of fights?

7 A. No we had several, you know, couple fights, several
8 fights in 2003.

9 Q. What were the varying amounts bet on fights in
10 2003?

11 MR. HODGE: Objection. Relevance. 403.

12 THE COURT: When you're asking the witness in
13 the use of pronouns, are you talking -- who is the
14 witness -- did you inquire of who the witness is talking
15 about?

16 You used the pronoun "we."

17 BY MR. PAIGE:

18 Q. When you say "we," who are you referring to?

19 A. Me and Gelean Mark.

20 Q. Did the same go for 2002?

21 A. I was in prison in 2002.

22 MR. HODGE: Objection. Objection.

23 THE COURT: Overruled.

24 BY MR. PAIGE:

25 Q. How many -- approximately how many people were at

1 the fights in 2002, on average?

2 MR. HODGE: Objection, Your Honor.

3 THE COURT: Sustained.

4 BY MR. PAIGE:

5 Q. Mr. Isaac, do you have any personal knowledge of
6 Mr. Blyden being at any dog fights?

7 MR. HODGE: Objection. Asked and answered.

8 THE COURT: Overruled.

9 THE WITNESS: Yes.

10 BY MR. PAIGE:

11 Q. How do you have that personal knowledge?

12 A. I saw him at dogfights, dogfights that we host.

13 Q. Did you see Mr. Blyden at dog fights, at any dog
14 fights that you and Mr. Gelean Mark hosted in 2004?

15 MR. HODGE: Objection. Leading.

16 THE COURT: Sustained.

17 BY MR. PAIGE:

18 Q. Do you have any personal knowledge of Mr. Blyden
19 attending any dogfights in the year 2004?

20 A. Yes.

21 Q. How do you have that knowledge?

22 A. I was there at the fight. Me, Blyden, Gelean Mark,
23 and several, several others.

24 Q. What, if anything, was Mr. Blyden doing at those
25 dog -- at the dogfight?

1 A. Security.

2 Q. What, if anything, was he wearing?

3 A. He was dressed in black.

4 MR. HODGE: Objection.

5 BY MR. PAIGE:

6 Q. Can you be more particular about what he was
7 wearing?

8 MR. HODGE: Objection. Asked and answered.

9 THE COURT: Sustained.

10 BY MR. PAIGE:

11 Q. What did he have on?

12 MR. HODGE: Objection.

13 MR. MOORE: Your Honor, may I -- can we voir
14 dire as to the basis of the witness' knowledge --

15 THE COURT: No.

16 MR. MOORE: -- as to Mr. Blyden?

17 THE COURT: No.

18 Sustained.

19 BY MR. PAIGE:

20 Q. Did you have -- can you tell us whether or not you
21 had a conversation with Mr. Blyden at any dogfights in
22 2004?

23 MR. HODGE: Objection. Leading.

24 THE COURT: Overruled.

25 THE WITNESS: Yes.

1 BY MR. PAIGE:

2 Q. What was said?

3 MR. HODGE: Objection. Leading.

4 THE COURT: Overruled.

5 THE WITNESS: What was said, okay --

6 THE COURT: Hold on a second. Hold on a
7 second.

8 Ladies and gentlemen, lunch is here. This is a
9 good time for us to break.

10 We'll have one hour for lunch. Enjoy your lunch.

11 (Jury out, 12:44 p.m.)

12 THE COURT: All right. Mr. Isaac, we're going
13 to take a one-hour break. You remain under oath.

14 Do you understand that?

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: All right. You're not to discuss
17 your testimony with anyone in the interim.

18 Do you understand that?

19 THE WITNESS: Yes, Your Honor.

20 THE COURT: All right. You need to be back on
21 the witness stand in an hour.

22 Do you understand?

23 THE WITNESS: Yes, Your Honor.

24 THE COURT: All right. Thank you, sir. You
25 can step down.

1 (Witness stood aside)

2 THE COURT: All right. I think that the
3 open-ended questions like that, "What did you say,"
4 could lead to a whole host of things that would be
5 difficult for the Court to correct or would
6 unnecessarily create issues for the Court.

7 So you may need to rephrase that.

8 "What did you say," there could be any number of
9 things that I would hope wouldn't be structurally
10 defective, but there's always a risk that that happens.
11 So if there is some way to narrow that question, or if
12 there's some particular thing you seek to elicit, then,
13 you know, you need to do -- phrase your question in a
14 way that that's what's elicited.

15 Because the look on the witness' face when the
16 question was posed, and the witness turning to the Court
17 as if the Court is going to narrow the scope of the
18 question, when the Court's not sure what the purpose of
19 the general question, is -- could lead to some problems.

20 So -- all right. Anything else we need to cover
21 before we have our break?

22 MR. PAIGE: No, Your Honor.

23 THE COURT: Attorney Hodge?

24 MR. HODGE: No, Your Honor.

25 THE COURT: Attorney Moore?

1 MR. MOORE: No, Your Honor.

2 THE COURT: All right. One hour. Enjoy your
3 lunch.

4 (Court in recess, 12:47 p.m.)

5 (After recess, 1:52 p.m., jury present)

6 (Witness resumed stand)

7 THE COURT: Good afternoon, ladies and
8 gentlemen.

9 How was lunch?

10 (Jurors indicating)

11 THE COURT: It's getting better everyday, it
12 looks like.

13 All right. We're heading in the right direction,
14 then.

15 Good afternoon, Counsel.

16 As you know, we are still in the government's
17 case-in-chief. We're in the examination of Mr. Isaac.
18 Is the government ready to proceed?

19 MR. PAIGE: Yes, Your Honor.

20 THE COURT: Go right ahead.

21

22

23 THEREUPON, GLENSON ISAAC, previously duly sworn,
24 was examined and testified further as follows:

25 DIRECT EXAMINATION (Cont'd)

1 BY MR. PAIGE:

2 Q. Mr. Isaac, earlier in your testimony you said that
3 you saw Mr. Blyden at a dogfight.

4 Do you remember that?

5 A. Yes. Yes.

6 Q. You said that he was working security. What do you
7 mean by "working security"?

8 A. Collecting pay.

9 Q. Did you see him doing this?

10 A. Yes.

11 Q. What was being collected?

12 A. Money.

13 Q. How much money was being collected?

14 MR. HODGE: Objection. Foundation.

15 THE COURT: Overruled.

16 THE WITNESS: I can't say specific what he was
17 collecting at the door, because Mark would allow him to
18 keep the funds at the door.

19 BY MR. PAIGE:

20 Q. Do you have any knowledge whether there was--

21 MR. HODGE: Objection. Foundation.

22 BY MR. PAIGE:

23 Q. -- a fee that was being collected?

24 MR. MOORE: Objection, Your Honor. Asked and
25 answered.

1 THE COURT: Overruled.

2 THE WITNESS: We usually charge like a hundred
3 dollars to come in to see a fight, per head.

4 BY MR. PAIGE:

5 Q. You said he was dressed in black. Describe what he
6 was wearing from head to toe, please?

7 MR. HODGE: Objection. Asked and answered.

8 THE COURT: Overruled.

9 THE WITNESS: Black military clothing, with a
10 mask.

11 BY MR. PAIGE:

12 Q. How did you know it was Mr. Blyden?

13 A. He told me it was him. He said, "It's me, Trush."

14 Q. Was he armed?

15 A. Yes.

16 Q. What was he armed with?

17 A. Assault rifle.

18 Q. Who hosted this fight?

19 A. Gelean Mark.

20 MR. HODGE: Objection. Foundation.

21 THE COURT: Overruled.

22 BY MR. PAIGE:

23 Q. I'm sorry?

24 A. Gelean Mark.

25 Q. Who promoted the fight?

1 A. Gelean Mark.

2 Q. How much money was gambled?

3 MR. HODGE: Objection. Foundation.

4 THE COURT: Sustained.

5 BY MR. PAIGE:

6 Q. Do you have any personal knowledge of whether this
7 fight was for bet?

8 A. Yes.

9 Q. How did you have that knowledge?

10 A. Because we fought two dogs there. We fought two
11 our own personal dogs at the fight.

12 Q. So the dog --

13 MR. HODGE: Objection.

14 BY MR. PAIGE:

15 Q. So the dog that was fighting was yours?

16 A. Yes.

17 Q. Who is "we"?

18 A. Oh, I'm sorry. Me and Gelean Mark.

19 Q. Whose dog won?

20 MR. HODGE: Objection. Relevance.

21 THE COURT: Sustained.

22 BY MR. PAIGE:

23 Q. Whose dog was you all, you all fighting?

24 MR. HODGE: Objection. Relevance.

25 THE COURT: Overruled.

1 BY MR. PAIGE:

2 Q. Whose dog, who is the owner of the other dog?

3 A. Someone from the States.

4 Q. Were there any other people there from the States?

5 MR. HODGE: Objection. Relevance.

6 THE COURT: Sustained.

7 BY MR. PAIGE:

8 Q. Did you and Gelean Mark win any money?

9 A. Yes.

10 Q. How much money?

11 MR. HODGE: Objection. Relevance.

12 THE COURT: Overruled.

13 THE WITNESS: 40,000; a total of 80.

14 BY MR. PAIGE:

15 Q. Do you recall having a conversation with Mr. Mark
16 after the fight?

17 Yes or no.

18 MR. HODGE: Objection. Leading.

19 THE COURT: Overruled.

20 THE WITNESS: Yes.

21

22 BY MR. PAIGE:

23 Q. What was that conversation in relation to?

24 A. After the fight?

25 Q. Yes.

1 I'll withdraw that.

2 Was the conversation in relation to your business
3 relationship, as far as dogfighting?

4 MR. HODGE: Objection. Leading.

5 THE COURT: Sustained.

6 BY MR. PAIGE:

7 Q. What was the conversation about?

8 A. Dogfighting.

9 Q. What, if anything, did you say to Mr. Mark?

10 A. It's so much thing we talk about, I just, you know.

11 Q. Did you see any police in or around that area after
12 the fight?

13 MR. HODGE: Objection. Leading.

14 THE COURT: Sustained.

15 BY MR. PAIGE:

16 Q. Did you and Mr. Mark get your winnings that
17 particular evening?

18 A. Yes.

19 Q. How were you paid?

20 A. Cash.

21 Q. Who was paid cash?

22 A. Gelean Mark.

23 Q. How much cash did Mr. Mark get?

24 A. It was a total of \$80,000.

25 MR. HODGE: Objection. Foundation.

1 THE COURT: Overruled.

2 BY MR. PAIGE:

3 Q. How much was his share, Mr. Mark's share?

4 A. Majority out of the bet, because I only had like
5 5,000.

6 Q. Did you and Mr. Mark's dogs fight any more during
7 that time of the year, 2004?

8 A. Yes, several times. We had several fights.

9 Q. Approximately how much money did you all win in
10 that year on dogfighting?

11 MR. HODGE: Objection. Relevance.

12 THE COURT: Sustained.

13 Come to sidebar.

14 (Sidebar discussion held as follows)

15 THE COURT: I suspect that your questions are
16 designed to inquire about Mr. Mark's involvement in
17 dogfighting, is that right?

18 MR. PAIGE: That's correct.

19 THE COURT: All right. You keep saying "you
20 all" and it presumes -- when you ask "you," and when you
21 say "you all," there's a chance that he'll talk about
22 himself and Mr. Mark, or someone else other than
23 himself.

24 If you say "you," he's going to talk about himself.
25 And so that question, it seems to me, would presume that

1 every time he talks about himself, he's talking about
2 Mark, which isn't necessarily the case.

3 The only person of relevance here -- that's why
4 I've been sustaining a bunch of these questions, not so
5 much because of foundation, but because you're asking
6 questions about "him" and, you know, "he might have a
7 dog," the record isn't clear that every dog that he has
8 is a dog in which Mr. Mark has an interest, or in which
9 Mr. Mark fights it.

10 When you say, "For the year 2004," for example,
11 "did you have a dog fight" or "did your dog
12 participate," it may or may not include Mr. Mark.

13 I suspect that what you're asking is, did Mr. Mark?
14 Isn't that what you're asking?

15 MR. PAIGE: Yes, it is.

16 THE COURT: All right.

17 Counsel have anything to add?

18 I suspect that that's part of your objection, too,
19 that it's too generalized --

20 MR. HODGE: Certainly, Your Honor.

21 THE COURT: All right.

22 MR. HODGE: And also, the other --

23 THE COURT: That would make it a relevancy
24 issue.

25 MR. HODGE: Right.

1 And the other relevancy issue to that -- that I'm
2 saying, Your Honor, is -- and also sort of a 403 issue,
3 is just the repeated questions about exactly how much
4 money is being made on each of these dog fights, when
5 this isn't like the drug issue, where you have to
6 establish a certain amount for the jury. It's either
7 there's dog fighting or there isn't.

8 THE COURT: All right. Well, it is for bet.
9 It's not just dog fighting. It's dog fighting for bet,
10 I think is how the statute is worded.

11 MR. HODGE: Well, actually, the statute reads
12 "willful" --

13 THE COURT: Well, let's not, let's not debate
14 the statute.

15 All right. Thank you, Counsel.

16 MR. HODGE: Thank you.

17 (End sidebar discussion, open court as follows)

18 THE COURT: Go ahead.

19 BY MR. PAIGE:

20 Q. Did you attend any other dog fights that were
21 hosted by Mr. Mark in 2004?

22 A. Yes.

23 Q. Were they all at the farm, hosted by Mr. Mark?

24 MR. MOORE: Objection.

25 MR. HODGE: Objection. Leading.

1 THE COURT: Sustained.

2 BY MR. PAIGE:

3 Q. Were all of those fights that you just referred to
4 held at the farm?

5 MR. HODGE: Objection. Leading.

6 THE COURT: It's the same question. Sustained.

7 BY MR. PAIGE:

8 Q. Where were they held?

9 A. At the farm.

10 MR. HODGE: Objection, Your Honor.

11 THE COURT: Overruled.

12 BY MR. PAIGE:

13 Q. Was anybody doing security at any others?

14 MR. HODGE: Objection. Leading.

15 THE COURT: Overruled.

16 THE WITNESS: Jerome did all the security at
17 the fights.

18 BY MR. PAIGE:

19 Q. How many times did you see Jerome doing security at
20 the fights?

21 A. Several times.

22 Q. How many times did you see him collecting at the
23 fights?

24 A. All fights at the farm, Jerome Blyden, collect.

25 Q. How many times did you see him dressed in

1 camouflage at the fights at the farm?

2 MR. HODGE: Objection. Relevance.

3 THE COURT: Sustained.

4 BY MR. PAIGE:

5 Q. Were there any fights at the farm that were not for
6 bet?

7 A. No.

8 Q. I'm going to direct your attention to
9 September 2003. Do you recall an incident at the
10 St. Thomas airport relating your drug trafficking?

11 Yes or no?

12 MR. HODGE: Objection. Leading.

13 THE COURT: Overruled.

14 THE WITNESS: Yes.

15 BY MR. PAIGE:

16 Q. Do you have personal knowledge of this?

17 A. Yes.

18 Q. And what is your -- how did you have that personal
19 knowledge?

20 A. Gelean Mark told me.

21 Q. Explain what happened.

22 A. Well, I was supposed to receive some drugs. I sent
23 them up in 2003. And they got seized at the airport.

24 Q. How much drugs?

25 A. I think --

1 MR. HODGE: Objection.

2 THE COURT: Overruled.

3 THE WITNESS: I think it was like 30 keys or
4 something like that.

5 MR. HODGE: Objection. Foundation.

6 THE COURT: Overruled.

7 BY MR. PAIGE:

8 Q. Thirty keys of what?

9 A. Cocaine.

10 Q. I would like to direct your attention to a time
11 when -- do you recall a time when you, Mr. Blyden and
12 Mr. Mark were in a vehicle in St. Thomas in 2003?

13 Yes or no?

14 MR. HODGE: Objection. Leading.

15 THE COURT: Sustained.

16 BY MR. PAIGE:

17 Q. Do you recall a time when you, Mr. Mark and
18 Mr. Blyden were together discussing business?

19 MR. MOORE: Objection.

20 MR. HODGE: Objection. Leading.

21 THE COURT: Sustained.

22

23 BY MR. PAIGE:

24 Q. Mr. Isaac, would you tell us about any
25 conversations that you heard where Mr. Mark and

1 Mr. Blyden, Blyden, discussed payments?

2 MR. HODGE: Objection. Leading.

3 THE COURT: Overruled.

4 THE WITNESS: Discussed what?

5 BY MR. PAIGE:

6 Q. Payments.

7 MR. MOORE: Your Honor, I'm sorry, I didn't
8 hear the -- discuss what, Your Honor?

9 THE COURT: He said "payments."

10 BY MR. PAIGE:

11 Q. Payments.

12 A. Yes.

13 Q. When was this?

14 THE COURT: Was that a yes or no question? I
15 thought it was -- you asked the witness to tell you
16 about them.

17 BY MR. PAIGE:

18 Q. Tell us about any --

19 MR. HODGE: Your Honor, could we get a time
20 frame?

21 THE COURT: The witness understands the
22 question.

23 THE WITNESS: A time frame?

24 BY MR. PAIGE:

25 Q. Tell us about the conversation.

1 A. Okay. We were taking Mr. Blyden home, and Gelean
2 Mark and Blyden was arguing in the car about, about
3 Mr. Mark paying his attorney fees.

4 And Blyden --

5 THE COURT: Stop.

6 MR. HODGE: Objection. Relevance.

7 THE COURT: Come to sidebar.

8 (Sidebar discussion held as follows)

9 MR. MOORE: Can I -- I'm sorry, Your Honor.

10 THE COURT: What is it that he's going to go
11 into here? He's talking about lawyers and stuff. I
12 don't want him to run off to the races or talk about
13 objectionable stuff.

14 Are you trying to find out what, if any,
15 discussions this gentleman had about narcotics
16 trafficking --

17 MR. PAIGE: No --

18 THE COURT: -- and then with whom and then what
19 the substance of those discussions were?

20 MR. PAIGE: No. It's about Mr. Blyden being
21 compensated for his work that he was doing as his
22 bodyguard, to further the enterprise.

23 THE COURT: All right.

24 MR. PAIGE: In general, that Mr. Mark was
25 paying him.

1 THE COURT: All right. Because now we're
2 getting into attorney's fees, and I don't know what's
3 going to come out of this witness' mouth. And it's hard
4 to put the horse back in the barn.

5 And, you know, I think you need to -- first of all,
6 the objection is sustained. I think you need to
7 rephrase your question. He's headed down a road that
8 I'm a little concerned about.

9 Attorney's fees. Does anyone -- what's he talking
10 about?

11 MR. MOORE: Your Honor, I have no clue.

12 MR. PAIGE: Well, Mr. Mark --

13 THE COURT: Do you have a clue, Attorney Paige?

14 MR. PAIGE: Yes. Mr. Mark was of the opinion
15 that he need not pay him any more than he was because,
16 as it were, he was already paying his attorney's fees.
17 Mr. Blyden wanted more payment in general for his
18 services to the enterprise.

19 THE COURT: This witness is about to talk about
20 attorney's fees. Is he talking about some case that's
21 going to roll out of his mouth next?

22 MR. LINDQUIST: What he, what he's -- what the
23 conversation was about was Blyden was hitting Mark up
24 for more money, as opposed to the relationship between
25 the two of them.

1 Mr. Blyden didn't feel that Mark was paying him
2 enough money for what he was doing for Mark.

3 And Mark's response was, "Look, I'm covering your
4 attorney fees" -- I think that's what Isaac indicated --
5 "I'm paying for your attorney fees."

6 And then Blyden says, "Well, I need more money
7 besides that."

8 That's the gist of the -- we can avoid the attorney
9 fees, but it goes directly to their relationship and the
10 fact that Mark was paying Blyden money for what he was
11 doing for him.

12 THE COURT: All right. That's legitimate.

13 MR. LINDQUIST: And it's difficult for this
14 witness to distinguish that, as far as the attorney
15 fees, because it was all part of the conversation.

16 THE COURT: All right. All right.

17 All right.

18 MR. LINDQUIST: What I would ask is --

19 THE COURT: All right. When he started he
20 didn't start with what you started with. He started
21 with what you ended with.

22 MR. LINDQUIST: Yeah.

23 THE COURT: He started with attorney's fees.
24 And I don't want him to talk about some case that he may
25 be involved in --

1 MR. LINDQUIST: He makes, he makes no reference
2 to a case. It's just a general reference, "Look, I'm
3 paying for your attorney."

4 And Blyden said, "I want more money."

5 THE COURT: All right. Okay.

6 MR. MOORE: Your Honor?

7 THE COURT: Attorney Moore.

8 MR. MOORE: Yes. I know that our firm has
9 represented Mr. Blyden on prior occasions, but I'm not
10 sure that, again, this is, if there was any particular
11 reference to something like that, I would have
12 appreciated something of a heads up about it. But I
13 don't think it's us. He has other lawyers.

14 MR. LINDQUIST: We have no idea what the
15 attorney reference is, other than what I just indicated;
16 no case, no firm, no nothing, just, "Hey, I want more
17 money."

18 "I'm paying for your attorneys."

19 "I want more money."

20 MR. HODGE: Your Honor?

21 THE COURT: Yes.

22 MR. HODGE: Excuse me.

23 Your Honor, I believe that the issue here for my
24 client is that under the, under the indictment we're
25 dealing with two racketeering acts that allege

1 conspiracy.

2 And right now he's -- this witness just testified
3 about the financial arrangements, paying for Blyden's
4 attorney. Even if he doesn't specify what the attorney
5 was for, the jury is here watching them standing side by
6 side right next to their attorneys in this case, and
7 they're going to use that as evidence of an existence of
8 this conspiracy involving Blyden and Mark.

9 And, Your Honor, it -- you can't unring the bell,
10 as Your Honor was saying. And you know, at this point
11 and I feel like I have to move for a mistrial.

12 THE COURT: Okay. Well, that's denied. I
13 think all he said was, he just mentioned the attorney's
14 fee, and I stopped him there.

15 All right. Is there some way we can take him to
16 that point in the conversation where we get to the nub
17 of the discussion, without --

18 MR. LINDQUIST: Yeah, I could --

19 THE COURT: Because I think that Attorney Hodge
20 makes a valid point, which is the jury is seeing them
21 here, they don't want to think -- I don't think we want
22 to create the impression that Mr. Mark is here, slipping
23 a check under the table.

24 MR. LINDQUIST: Would you allow Paige to simply
25 say, without talking --

1 THE COURT: He can lead to get us through that
2 thicket, just for the moment, just to get us to that
3 point --

4 MR. LINDQUIST: Would Your Honor --

5 THE COURT: -- to the period in time or the
6 period of discussion --

7 MR. LINDQUIST: Could he say, without -- could
8 the question be this: Look, without mentioning anything
9 about attorney fees, what was the nature of the
10 conversation between --

11 THE COURT: That would cover it, yeah.

12 MR. MOORE: Your Honor, if it's going to be a
13 statement about -- if it's going to be a statement
14 about some payment, we have got to -- I mean --

15 THE COURT: Yeah. I think, I mean you've got
16 some cross-examination. I mean, I --

17 MR. MOORE: Yes, Your Honor.

18 MR. HODGE: Your Honor --

19 THE COURT: -- it's for the government --

20 MR. HODGE: Your Honor --

21 THE COURT: -- to do its direct.

22 Thank you.

23 (End sidebar discussion, open court as follows)

24 THE COURT: The objection is sustained. Go
25 ahead.

1 BY MR. PAIGE:

2 Q. Mr. Isaac, without any reference to attorneys fees,
3 tell us what the conversation was about between Mr.
4 Blyden and Mr. Mark.

5 MR. HODGE: Objection.

6 THE COURT: Overruled.

7 THE WITNESS: Blyden had want a monthly
8 allowance from Gelean Mark.

9 BY MR. PAIGE:

10 Q. And did Gelean Mark want to give him that
11 allowance?

12 A. If Gelean Mark wanted to give him that allowance?

13 Q. Right.

14 A. No.

15 MR. PAIGE: Court's indulgence?

16 THE COURT: What do you mean by "allowance."

17 THE WITNESS: He was suspended pending a --

18 THE COURT: Stop. Stop.

19 THE WITNESS: Okay.

20 THE COURT: All right. Next question.

21 MR. PAIGE: Court's indulgence?

22 MR. MOORE: Your Honor, we would like a motion
23 to strike with regard to that last --

24 THE COURT: Well, the jury -- that last remark
25 is to be disregarded. It's not properly before you.

1 Mr. Isaac, I'm just asking, you meant -- used the
2 word "allowance." And I just want to know what you mean
3 when you say "allowance."

4 THE WITNESS: A monthly payment.

5 THE COURT: Next question.

6 MR. PAIGE: I have no further questions.

7 THE COURT: Attorney Hodge?

8 Or was it Attorney --

9 MR. HODGE: Court's indulgence?

10 THE COURT: Yes.

11 MR. MOORE: Your Honor, I can go first.

12 THE COURT: All right. Go right ahead.

13 CROSS-EXAMINATION

14 BY MR. MOORE:

15 Q. Good afternoon, Mr. Isaac.

16 A. Good afternoon.

17 Q. As I understand it -- you made how many trips to
18 the Virgin Islands from the time you were released from
19 prison until, I guess the time you returned to prison?

20 A. Several.

21 Q. Do you remember testifying in this court -- excuse
22 me.

23 Do you remember testifying under oath previously
24 regarding your trips to the Virgin Islands?

25 A. Yes.

1 Q. And do you recall saying it was approximately eight
2 during that period between 2003 and 2005?

3 A. I never said that.

4 Q. Do you recall -- I'll tell you what -- what exactly
5 did you say about the number of trips on the, while you
6 were testifying under oath previously?

7 THE COURT: You're asking him a memory
8 question, what he said at some other time, or do you
9 want to ask him now what --

10 MR. MOORE: Yes.

11 BY MR. MOORE:

12 Q. How many trips did you take to the Virgin Islands,
13 an exact number?

14 A. I can't recall a number, but it was a lot.

15 Q. Do you recall whether or not you had plane tickets
16 or vouchers or things to count up the number of trips
17 you took?

18 A. If I have?

19 Q. Yes.

20 A. On my possession, I don't have any.

21 Q. Do you recall that you did not mention dogs,
22 dogfighting, at all on your prior sworn testimony?

23 MR. PAIGE: Objection. That's improper
24 impeachment.

25 THE COURT: Sustained.

1 BY MR. MOORE:

2 Q. Mr. Isaac, do you recall testifying here today that
3 Mr. Mark sent some person to North Carolina to cool out
4 or rest up?

5 A. Yes.

6 Q. Was that in 2004?

7 A. It could be '03 or '04.

8 Q. And you weren't even there to receive that person,
9 were you?

10 A. I was there.

11 Q. Did you pick that person up at the airport?

12 A. No.

13 Q. Did that person come by your house?

14 A. Yes.

15 Q. You met that individual?

16 A. Yes.

17 Q. Mr. Isaac, isn't it true that you never met
18 Mr. Blyden before coming to court today?

19 A. I apologize. Can you repeat your question again?

20 Q. Yeah. Is it true that you have never visually laid
21 your eyes on the face of Mr. Blyden before coming to
22 court today?

23 A. I met Mr. Blyden at my home -- the very first time
24 I met Mr. Blyden is when he came to my house in North
25 Carolina.

1 Q. And what year was that?

2 A. It could have been '03 or '04.

3 Q. And is it your testimony that when you went to a
4 dogfight, the individual you identify as Mr. Blyden was
5 dressed head to toe in black and was wearing a mask?

6 A. Yes.

7 Q. And did you recognize the face of Mr. Blyden on
8 that occasion?

9 A. At first, no, until he spoke to me.

10 Q. And so it wasn't his face; you're saying you
11 recognized his voice?

12 A. Yes.

13 Q. And you heard his voice on a prior occasion?

14 A. Yes.

15 Q. Mr. Isaac, direct your attention to Government's
16 Exhibit Number 32 -- Number 32B.

17 MR. MOORE: Sorry, Your Honor.

18 THE COURT: Do you want the government to pull
19 it up, or -- oh, you've got it. It's there.

20 BY MR. MOORE:

21 Q. You were previously shown this document by
22 government's counsel, were you not?

23 A. Yes.

24 Q. And do you recognize the document as something
25 you're familiar with?

1 A. Yes.

2 Q. In fact, let me take you back to page -- do you see
3 your signature on that page?

4 A. Yes.

5 Q. Now, when were you convicted upon your plea of
6 guilty in the drug conspiracy case?

7 A. When I entered my plea?

8 Q. When -- yes.

9 A. It was '06.

10 Q. And have you been sentenced on that plea yet?

11 A. No, sir.

12 Q. And is it my understanding that -- or excuse me.
13 Is it your understanding that between now and the time
14 you are sentenced, you have the opportunity to obtain a
15 recommendation for a reduced sentence?

16 A. My attorney did not instruct me of that.

17 Q. Well --

18 A. Inform me.

19 Q. Do you understand by virtue of the document there
20 before you that subject to you testifying as required in
21 proceedings by the United States, that under this
22 agreement you may receive a recommendation from the
23 government for a lower sentence?

24 A. My attorney did not -- my attorney did not inform
25 me of that.

1 Q. Directing your attention to page 5.

2 Did you read this with your attorney prior to
3 signing it?

4 A. I brief -- briefly read it.

5 Q. Well, at the conclusion, and prior to signing this
6 agreement, were you -- or are you currently aware that
7 you, through this agreement, this supplemental
8 agreement, may receive a lower sentence at the time of
9 your sentencing as -- based upon your cooperation under
10 this agreement?

11 Is that correct?

12 A. I guess. But my attorney told me that --

13 Q. You can't --

14 A. -- it's up to the judge.

15 Q. You can't tell me what your lawyer told you, sir.
16 I apologize for that.

17 But you -- you're aware that whatever sentence you
18 receive is up to the Court.

19 But you may be able to receive a recommendation
20 from the government for a lower sentence at the time of
21 your sentencing, based upon their recommendation for
22 that lower sentence, correct?

23 A. Yes.

24 Q. And is it your understanding that the government,
25 in its sole discretion, will determine whether or not

1 you've fulfilled your obligations under your plea
2 agreement?

3 A. Yes.

4 Q. And is it your understanding that you were obliged,
5 and you agreed to testify as a witness before any court
6 or other proceeding as required by the government?

7 A. Yes.

8 Q. Is it your hope to receive a lesser sentence at the
9 time of your sentencing?

10 A. Yes.

11 Q. And is it your wish and desire to cooperate as
12 fully as possibly with the government --

13 A. And truthful.

14 Q. -- prior to then?

15 A. And truthful, yes.

16 Q. And how many times have you testified for the
17 government since the date of your plea until today?

18 A. This my third time.

19 Q. And you're not in jail currently, are you?

20 A. No.

21 Q. And you haven't been in jail since the time of your
22 plea, have you?

23 A. No.

24 Q. Now, you testified that you were with Mr. Blyden
25 and Mr. Mark in 2003; is that correct?

1 A. '03 or '04.

2 Q. So it could have been '04 that you had this -- or
3 heard this conversation about receiving some monthly
4 payment?

5 A. Yes. Mostly leaning to '04, yes.

6 Q. And were you on a street corner or in a car, or
7 where were you?

8 A. We were in a car.

9 Q. And how many -- how long were -- which visit to the
10 Virgin Islands was it, that this occurred?

11 A. What you mean by "which visit"?

12 Q. I mean, how many times did you come to the Virgin
13 Islands in 2004?

14 A. A few times.

15 Q. All right. And you speak about this one occasion
16 where you overheard that conversation?

17 A. Yes, I was in the car.

18 Q. Anybody else in the car with you?

19 A. Myself, Gelean Mark and Jerome.

20 Q. Let me take you back to your dogfighting. You do
21 breeding, and I think I heard you say you did pedigree.
22 You would match dogs for breeding?

23 A. Match them for breeding; what you mean "match"?

24 Q. What did you mean by -- you talked about, in your
25 earlier testimony, that you raised dogs, and you read

1 about pedigree?

2 A. The bloodline of the dog.

3 Q. Okay. I'm sorry. The bloodlines. Did you, did
4 you consult books or magazines or anything to assist you
5 in doing this?

6 A. I did a lot of reading.

7 Q. What publications did you read?

8 A. American Pit Bull Gazette. Sport and Dog Journal.

9 Q. And let me take you -- American Pit Bull was about
10 the breeding and fighting of pit bulls?

11 A. Mostly advertising.

12 Q. And what about the Gazette; is that the full name
13 of it?

14 A. American Pit Bull Gazette.

15 Q. And what was the other one, the sporting -- the
16 last one you spoke about?

17 A. Sport and Dog Journal.

18 Q. What is the substance or the subject of Sport and
19 Dog Journal?

20 A. Putting in ads on your dog kennel, breeding,
21 selling, so forth.

22 Q. Was that primarily for pit bulls, or for other
23 breeds as well?

24 A. Pit bulls.

25 Q. Mr. Isaac, you regard pit bull fighting as a sport,

1 don't you?

2 A. Yes.

3 Q. And it's more of a hobby, correct?

4 A. Yes.

5 Q. And you've been engaged in it for many years?

6 A. Yes.

7 Q. And it had nothing to do with the drug part of your
8 life, did it?

9 A. Yes.

10 Q. Well, in what way -- is it because you just had
11 some money?

12 A. For betting that kind of --

13 Q. I'm sorry?

14 A. Okay. Repeat your question.

15 Q. You had your dogfighting and breeding and raising
16 hobby, correct?

17 A. Uhm-hmm.

18 Q. Then you had your drug stuff; is that correct?

19 A. Yes.

20 Q. All right.

21 Do you still maintain a kennel?

22 A. No.

23 Q. Do you still subscribe to the magazines?

24 A. No.

25 MR. MOORE: Court's indulgence, please?

1 THE COURT: Yes.

2 (Counsel conferring with defendant)

3 MR. MOORE: Pardon me, Your Honor.

4 THE COURT: Yes.

5 BY MR. MOORE:

6 Q. Mr. Isaac, isn't it true, when the gentleman sent
7 Mr. Mark to Puerto Rico -- I'm sorry.

8 When you testified earlier about someone coming to
9 North Carolina to cool out, when that person arrived,
10 isn't it true you were at a cockfight in Puerto Rico at
11 the time?

12 A. That was couple days after I went to Puerto Rico.

13 Q. It is a couple of days after?

14 A. Yes, sir.

15 Q. Very well.

16 Do you currently have a sentencing date?

17 A. No, sir.

18 MR. MOORE: No further questions, Your Honor.

19 THE COURT: All right.

20 Attorney Hodge?

21 MR. HODGE: No questions, Your Honor.

22 THE COURT: All right.

23 Redirect?

24 REDIRECT EXAMINATION

25 BY MR. PAIGE:

1 Q. Mr. Isaac, going back to that conversation that
2 Attorney Moore asked you about in the car, where was
3 that car at the time the conversation took place?

4 Where were you?

5 A. In St. Thomas.

6 Q. Where in St. Thomas?

7 MR. HODGE: Objection. Relevance.

8 THE COURT: Overruled.

9 THE WITNESS: We were going towards Bordeaux.

10 BY MR. PAIGE:

11 Q. Do you know where you were going, in particular?

12 A. We were going to drop Jerome off to his girlfriend
13 house.

14 Q. Who was driving?

15 MR. HODGE: Objection. Relevance.

16 THE COURT: Overruled.

17 THE WITNESS: Gelean Mark.

18 BY MR. PAIGE:

19 Q. Attorney Moore asked you whether drugs are related
20 to dogs, and I think you said yes.

21 How is that?

22 MR. HODGE: Objection. Mischaracterizes the
23 testimony.

24 THE COURT: Overruled.

25 THE WITNESS: To bet that large quantity of

1 money at dogfights.

2 BY MR. PAIGE:

3 Q. So, but for your money from the drug trade, you
4 couldn't afford to bet those amounts?

5 A. You can, but...

6 MR. HODGE: Objection. Leading.

7 THE COURT: Sustained.

8 BY MR. PAIGE:

9 Q. Attorney Moore asked you about journals and
10 periodicals on dog breeding and pit bulls. Did you see
11 any pit bulls on Mr. Mark's property when you visited
12 the farm?

13 A. Yes.

14 MR. PAIGE: Your Honor, I would like to show
15 the witness some exhibits.

16 MR. MOORE: Your Honor, objection. I believe
17 that's beyond the scope of redirect -- re- --

18 THE COURT: Unless this one has already been
19 showed. I don't know what the exhibits are.

20 MR. MOORE: The only exhibits, Your Honor, I
21 think...

22 MR. PAIGE: I would like to show him
23 Government's Exhibit 165K-1 and 165K-2.

24 MR. HODGE: Your Honor, that wasn't previously
25 used.

1 THE COURT: All right. Go ahead.

2 (Government's Exhibit Nos. 165K-1, 165K-2 marked)

3 BY MR. PAIGE:

4 Q. Do you recognize 165K-1?

5 A. Yes.

6 Q. What is it?

7 A. A photograph of myself, Gelean Mark, Everett Mills,
8 Vernon Fagan, Tom Garner, Louis Rabsatt, Kilo Emanuel.

9 Q. Is there anything else included in this photograph,
10 as well?

11 MR. HODGE: Objection. Leading.

12 THE COURT: Overruled.

13 THE WITNESS: A dog named Bolo.

14 BY MR. PAIGE:

15 Q. Does this photograph fairly and accurately
16 depict --

17 A. Repeat.

18 Q. Does this photograph fairly and accurately depict
19 you gentlemen with that photograph --

20 A. Yes.

21 Q. -- taking this photograph on the date?

22 A. Yes.

23 MR. PAIGE: Your Honor, I move for admission of
24 Government's Exhibit 165K-1.

25 MR. MOORE: I'm going to object to it. It

1 would be a Virgin Islands --

2 THE COURT: All right. Attorney Hodge?

3 MR. HODGE: Same objection, Your Honor.

4 THE COURT: All right. Sustained.

5 BY MR. PAIGE:

6 Q. When was this photograph taken?

7 A. In North Carolina -- when?

8 Q. Yeah.

9 A. I cannot say. I don't remember what day it was.

10 MR. PAIGE: Your Honor, I move for admission of
11 165K-1.

12 MR. MOORE: Your Honor, I would object again.
13 Jurisdiction. 403. Relevance.

14 THE COURT: Attorney Hodge?

15 MR. HODGE: Same objection, Your Honor.

16 THE COURT: All right. I'll take it under
17 advisement.

18 MR. PAIGE: Let me see 165K-2.

19 BY MR. PAIGE:

20 Q. Do you recognize Government's Exhibit 165K-2?

21 A. Yes.

22 Q. What is it?

23 A. A photograph.

24 Q. What does it depict?

25 A. Names?

1 Q. Yes.

2 A. Louis Rabsatt, Gelean Mark, Kilo Emanuel, Vernon
3 Fagan and -- I forgot his name.

4 Q. Were you present when this photograph was taken?

5 A. Yes.

6 Q. When was it taken?

7 A. When was it? I cannot give you a month and a
8 day --

9 Q. Does it fairly --

10 A. -- but --

11 Q. I'm sorry. Go ahead.

12 A. -- but it was in North Carolina.

13 Q. Does it fairly and accurately depict these
14 gentlemen as they were on the date that it was taken?

15 A. Yes.

16 MR. PAIGE: Your Honor, I move for admission of
17 165K-2.

18 MR. MOORE: Objection, Your Honor, for all the
19 same reasons and --

20 MR. HODGE: Same objections, Your Honor.

21 THE COURT: All right. It's under advisement.

22 BY MR. PAIGE:

23 Q. Where is the literal location of where this
24 photograph was taken?

25 I know you said North Carolina. Can you be more

1 specific?

2 A. The guy who I cannot remember his name right now,
3 at his home.

4 Q. Is this a home, business, or just residential home?

5 A. Residential.

6 Q. Did it have anything to do in relation to the
7 activities that you and the persons depicted in it were
8 engaging in at that time?

9 MR. HODGE: Objection. Leading.

10 THE COURT: Sustained.

11 MR. PAIGE: One moment, Your Honor?

12 THE COURT: Yes.

13 MR. PAIGE: I have no further questions.

14 MR. MOORE: Your Honor, may I inquire?

15 THE COURT: Yes, on those exhibits.

16 MR. MOORE: Your Honor -- very well.

17 THE COURT: And that's the only thing that went
18 beyond the scope, so -- but they weren't admitted, so --
19 but if you wish to inquire on them, go right ahead.

20 RE CROSS-EXAMINATION

21 BY MR. MOORE:

22 Q. With regard to 165K-2, the gentleman whose name you
23 don't know, is --

24 A. Do not remember.

25 Q. Do not remember.

1 (Continuing) -- does he, was he a person who bet on
2 dog fights?

3 A. He do bet on dog fights.

4 Q. And do you know what his job or his source of
5 income for -- was?

6 A. He was a breeder.

7 Q. All right. On the prior picture, 165K-1, the big
8 house in North Carolina, and the blond gentleman in that
9 one, do you recall his name?

10 A. Tom Garner.

11 Q. What does Mr. Donner [sic] do for a living?

12 A. He has several businesses.

13 Q. And does he bet on dog fights?

14 A. Yes.

15 Q. When you say "several businesses," could you -- is
16 one of them like a contractor or something?

17 What kind of -- give me -- legitimate businesses?

18 A. Yes.

19 Q. And with regard to the dogfighting, if I had a
20 thousand dollars, I could bet on one, too?

21 A. Yes, if you're there.

22 MR. MOORE: No further questions.

23 THE COURT: All right.

24 Any cross on that?

25 MR. HODGE: No thank you, Your Honor.

1 MR. PAIGE: Your Honor, with those additional
2 inquiries by counsel, we move for their admission.

3 THE COURT: All right. It's under advisement.
4 Okay. Mr. Isaac, thank you for your testimony.
5 You may step down.

6 MR. MOORE: Your Honor, may we hold him just
7 briefly -- just to hold for a day?

8 THE COURT: All right. You're not excused,
9 though. You may step down.

10 Next witness.

11 MR. LINDQUIST: Michael Goldfinger.

12 (Pause)

13 THE WITNESS: Good afternoon.

14 Good afternoon, Your Honor.

15 THE CLERK: Please raise your right hand to
16 take the oath. Please respond, "I do."

17 (Witness sworn)

18 THE WITNESS: Yes, I do.

19 THE CLERK: Please be seated.

20 THEREUPON, MICHAEL GOLDFINGER, having been duly
21 sworn, was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. LINDQUIST:

24 Q. Good afternoon, sir.

25 A. Good afternoon, sir.

1 Q. Tell us your name.

2 A. My name is Michael Goldfinger.

3 Q. What do you do for a living?

4 A. I'm a special agent for the Drug Enforcement
5 Administration.

6 Q. How long have you done that?

7 A. Since 2000.

8 Q. Before that, were you involved in law enforcement?

9 A. No, sir, I was not.

10 Q. Give us an idea of your educational background.

11 A. I graduated, bachelor of arts from Boston
12 University, 1991.

13 Q. In a word or two, tell us what you do as a DEA
14 agent?

15 A. My primary responsibilities is to investigate
16 narcotic traffickers, narcotic organizations and to
17 enforce the federal narcotic laws.

18 Q. I would like you to think back to 2004. Were you
19 involved in an investigation here in the Virgin Islands?

20 A. Yes, sir, I was.

21 Q. And in what capacity, generally speaking?

22 A. I was what we call the lead investigator.

23 Q. Generally, what did the investigation involve?

24 A. This particular investigation involved a drug
25 trafficking area in Savan, St. Thomas.

1 Q. Did the investigation -- describe the investigation
2 as far as its component parts.

3 A. There were three major components to this
4 investigation.

5 The first part of this particular investigation
6 involved street-level buys using a confidential
7 informant.

8 The second phase of the investigation involved a
9 Title III investigation, better known as a wiretap.

10 And the third part of the investigation primarily
11 involved the execution of search warrants and arrest
12 warrants.

13 Q. Who were the primary subjects of that
14 investigation?

15 A. All the subjects of the investigation, sir?

16 Q. The primary subjects of that investigation?

17 A. Mr. Allen Dinzey, Vernon Fagan, Gelean Mark, Tyrone
18 Prince.

19 Q. Are those the primary ones?

20 A. Yes, sir.

21 Q. All right. Of those individuals that you've named,
22 is one of them in the courtroom today?

23 A. Yes, sir, he is.

24 Q. Which one is in the courtroom?

25 A. Mr. Gelean Mark.

1 Q. Would you point him out and describe what he's
2 wearing, please?

3 A. Yes. Mr. Gelean Mark is sitting to the far left,
4 wearing black glasses and what appears to be an
5 off-white, button-down shirt, shaved head.

6 MR. LINDQUIST: May the record reflect that the
7 witness has identified Defendant Mark.

8 THE COURT: Yes. The record will reflect
9 Defendant Mark has been identified by the witness.

10 BY MR. LINDQUIST:

11 Q. When did the investigation get started?

12 A. November 2004.

13 Q. How did it get started?

14 A. We had, through our own historical investigative
15 means and information received from other law
16 enforcement agencies, learned of an area in St. Thomas
17 in the Savan area which was being utilized primarily --

18 THE COURT: Stop.

19 Hearsay.

20 Next question.

21 BY MR. LINDQUIST:

22 Q. With regard to that information, what did you do as
23 far as your investigation?

24 A. We conducted an investigation using a confidential
25 source into the Savan area of St. Thomas.

1 Q. Who was the confidential source?

2 A. Mr. Theodore Phillips.

3 Q. And how is it that you were using Mr. Phillips?

4 A. Mr. Phillips was signed up by my agency to be a
5 confidential informant.

6 Q. How did you utilize him?

7 A. Mr. Phillips was provided with an objective for the
8 day, to go and purchase narcotics. He was given
9 instructions and done -- did what we asked him to do as
10 far as that was concerned.

11 Q. Were you personally involved in those activities?

12 A. Yes.

13 Q. I would like to refer you to December 7 of 2004.
14 Was that your first involvement?

15 A. Yes, sir, it was.

16 Q. Tell us what happened that particular day with
17 regard to Mr. Phillips?

18 A. December 7th, 2004, we instructed Mr. Phillips to
19 enter the Savan area to attempt to purchase crack
20 cocaine.

21 We had provided him with \$400 worth of government
22 funds to go into the area and purchase crack cocaine.

23 Q. What did you do?

24 A. We have a certain procedure before sending people
25 in to purchase narcotics.

1 Initially, Mr. Phillips was debriefed as to exactly
2 what we wanted him to do. He was then searched. We
3 search our informants before we send them in to make a
4 search.

5 At that same time, surveillance units were placed
6 in that particular area of Savan so they could observe
7 exactly what was going on.

8 Mr. Phillips was equipped with digital, audio and
9 video equipment so we could monitor everything and
10 record everything that had taken place.

11 Q. What do you mean by that?

12 A. It's -- there are devices which are put on a
13 person's body which will digitally record all
14 conversation and video of the transaction taking place.

15 Q. All right. What happened?

16 A. We then drove Mr. Phillips to the area near
17 Windward Passage, where he was released from our vehicle
18 and sent into the Savan area.

19 Mr. Phillips was in the area for approximately 10
20 to 15 minutes before returning to the vehicle, at which
21 time the drug evidence which he had purchased was
22 relinquished to myself.

23 MR. HODGE: Objection. Foundation.

24 THE COURT: Overruled.

25 BY MR. LINDQUIST:

1 Q. What did you do with the drug evidence as you --
2 first of all, describe the drug evidence as you received
3 it from him?

4 A. The drug evidence was \$400 worth of crack cocaine
5 which Mr. Phillips purchased.

6 Q. All right. Describe it. Was it -- describe it.

7 A. Describe crack cocaine?

8 Q. No. Describe what he handed to you.

9 A. It was a bag which contained crack cocaine.

10 Q. What did you do with that bag containing the crack
11 cocaine?

12 A. That crack cocaine was then brought back to our
13 office where --

14 MR. HODGE: Objection. Foundation.

15 THE COURT: Overruled.

16 This is based on your -- what you did, is that
17 correct?

18 THE WITNESS: Yes, Your Honor.

19 THE COURT: All right. Go ahead.

20 THE WITNESS: The crack cocaine is brought back
21 to our office where it is weighed, photographed, then
22 placed in an evidence bag and secured in a vault in our
23 office.

24 MR. HODGE: Your Honor --

25 THE COURT: You're testifying based on what you

1 did?

2 THE WITNESS: Yes, Your Honor.

3 THE COURT: All right. Go ahead.

4 MR. HODGE: Your Honor, there's been no
5 testimony identifying any substance as crack cocaine.

6 THE COURT: Overruled.

7 MR. LINDQUIST: Could we put up Exhibit 36A,
8 please, for identification.

9 (Government's Exhibit No. 36A marked)

10 BY MR. LINDQUIST:

11 Q. Take a look at that. Do you recognize that
12 photograph, 36A?

13 A. Yes, sir, I do.

14 Q. And what is that?

15 A. Those are the bags of crack cocaine which were
16 purchased.

17 Q. And how are you able to recognize that?

18 THE COURT: Hold on one second. Those are the
19 items that you then believed to be crack cocaine, is
20 that correct?

21 THE WITNESS: Yes, Your Honor.

22 THE COURT: All right. Go ahead.

23 BY MR. LINDQUIST:

24 Q. And how are you able to recognize that?

25 A. Based on what I observed on that day, those are the

1 same bags which were handed to me by the confidential
2 informant, Mr. Phillips?

3 Q. Does this photograph fairly and accurately portray
4 what you received from Mr. Phillips on that particular
5 day?

6 A. Yes, sir, it does.

7 MR. LINDQUIST: I offer it into evidence,
8 please.

9 THE COURT: Attorney Hodge?

10 MR. HODGE: Objection, Your Honor.

11 MR. MOORE: Best evidence; not best evidence,
12 Your Honor.

13 THE COURT: All right. Exhibit 36A is
14 admitted.

15 (Government's Exhibit No. 36A admitted)

16 MR. LINDQUIST: May we publish that, please?

17 BY MR. LINDQUIST:

18 Q. Agent Goldfinger, what are we seeing here?

19 A. You are seeing the small Ziploc bags containing
20 individual pieces of crack cocaine which Mr. Phillips
21 purchased for \$400 of government funds in the Savan area
22 of St. Thomas.

23 Q. Okay.

24 MR. LINDQUIST: All right. If we could have
25 the lights back up, please.

1 And Your Honor, I'm going to apologize, we need to
2 apply some stickers to the, some exhibits that were just
3 delivered.

4 THE COURT: All right. Go ahead.

5 MR. LINDQUIST: Thank you.

6 Your Honor, I would like to use the document
7 camera, but I think he needs to have this in his hand in
8 order to identify it properly.

9 THE COURT: Why don't we try the document cam
10 first.

11 It's there. It's not evidence, right?

12 It's on the screen?

13 MR. LINDQUIST: I'm sorry?

14 THE COURT: It's on the screen.

15 MR. LINDQUIST: I'm sorry. I'm looking at the
16 wrong monitor.

17 All right. Agent Goldfinger, I'm showing you --
18 yes -- Exhibit 36B.

19 (Government's Exhibit No. 36B marked)

20 BY MR. LINDQUIST:

21 Q. Do you recognize that?

22 A. Yes, sir, I do.

23 Q. And what is that?

24 A. That's the evidence bag in which the evidence is
25 contained in.

1 Q. Let me just turn it over.

2 Do you recognize that?

3 A. Yes, sir, I do.

4 Q. Okay. And what, what did you do as far as bagging
5 that evidence and securing it at this particular time?

6 A. Well, the evidence is placed in the bag, sealed by
7 myself, witnessed by Special Agent Kevin Adams. The bag
8 is heat-sealed and then placed in our vault for
9 safekeeping.

10 Q. When the bag went into the vault, was it intact as
11 far as its integrity was concerned?

12 A. Yes, sir, it was.

13 Q. Agent Goldfinger, I would now like to refer you to
14 December 21st of 2004. What happened on that date as
15 far as this investigation was concerned?

16 A. On that date, sir, again, Mr. Phillips was brought
17 to our office, where he was briefed by myself and other
18 agents as far as what his objective would be for that
19 particular day. That particular day he was again
20 instructed to go into the Savan area and attempt to
21 purchase \$400 of government funds of crack cocaine from
22 the same source which he had purchased from previously.

23 Mr. Phillips was searched by myself prior to going
24 into the location.

25 He was also -- had an audio and video digital

1 component put on his person in order to record all the
2 activities that took place during the purchase.

3 Surveillance units were then put in position in the
4 Savan area for observation and safety of Mr. Phillips.

5 We then at that time drove Mr. Phillips to the
6 Windward Passage, where we let him out of the car and
7 sent him on foot into the Savan area to again purchase
8 crack cocaine.

9 Q. What happened?

10 A. Again, approximately 10 to 15 minutes later,
11 Mr. Phillips returned to the vehicle, came into the
12 vehicle. He was searched. He immediately handed me the
13 drug evidence, which was crack cocaine.

14 The audio/video devices were taken off
15 Mr. Phillips, and Mr. Phillips was debriefed as far as
16 everything that took place during his meet and we
17 returned to the office.

18 Q. What did you do with regard to the drug evidence?

19 A. The drug evidence was brought back to the office
20 where it was immediately photographed, weighed, field
21 tested, and then it was sealed in an evidence bag.

22 MR. LINDQUIST: May we have the witness please
23 look at Government's Exhibit 37A for identification.

24 (Government's Exhibit No. 37A marked)

25 BY MR. LINDQUIST:

1 Q. All right. Take a look at 37A. Do you recognize
2 that?

3 A. Yes, sir, I do.

4 Q. And what is that?

5 A. Those are the Ziploc baggies containing crack
6 cocaine which Mr. Phillips had purchased.

7 Q. How is it you're able to recognize that?

8 A. They are exactly the same bags which I had received
9 from him the day of the buy.

10 Q. Does this photograph fairly and accurately portray
11 what you received from Mr. Phillips that day?

12 A. Yes, sir, they do.

13 MR. LINDQUIST: I offer it into evidence,
14 please.

15 THE COURT: All right.

16 Exhibit 37A, what is it?

17 THE WITNESS: It's crack cocaine, sir.

18 THE COURT: Is it crack?

19 THE WITNESS: Yes, crack.

20 THE COURT: What is the item itself?

21 What is 37A?

22 MR. LINDQUIST: I'm sorry.

23 BY MR. LINDQUIST:

24 Q. What are we looking at?

25 A. Multiple Ziploc bags, each bag containing a piece

1 of crack -- rock crack cocaine.

2 Q. It's a photograph; is that correct?

3 A. Yes, sir, it is.

4 THE COURT: Any objection, Attorney Hodge?

5 MR. HODGE: Same objection.

6 THE COURT: Attorney Moore?

7 MR. MOORE: With counsel.

8 THE COURT: All right. 37A is admitted.

9 (Government's Exhibit No. 37A admitted)

10 MR. LINDQUIST: May we -- thank you, Your
11 Honor.

12 BY MR. LINDQUIST:

13 Q. Now Agent Goldfinger, what are we seeing here?

14 A. We're seeing multiple Ziploc bags containing
15 individual pieces of crack cocaine which Mr. Phillips
16 purchased for \$400 of government funds.

17 Q. All right.

18 MR. LINDQUIST: Let's go ahead and take that
19 down.

20 THE COURT: Agent Goldfinger, what was 36A?

21 THE WITNESS: The photograph, Your Honor.

22 THE COURT: Can the government put 36A up so
23 the witness can view that?

24 What is 36A?

25 THE WITNESS: 36A is multiple small Ziploc

1 bags. Each Ziploc bag containing individual pieces of
2 crack cocaine, Your Honor.

3 THE COURT: Is it a bag? What is the -- what
4 is 36A itself?

5 THE WITNESS: It's a photograph --

6 THE COURT: All right.

7 THE WITNESS: -- of the Ziploc bags.

8 THE COURT: All right. Okay.

9 BY MR. LINDQUIST:

10 Q. Agent Goldfinger, what did you then do -- we're
11 back to the December 21 transaction.

12 What did you do with the actual substance that you
13 got from Mr. Phillips?

14 A. The substance was field tested. It was then
15 weighed. It was photographed and then it was placed in
16 a heat-sealed envelope and placed in a vault for
17 safekeeping.

18 MR. LINDQUIST: Your Honor, to save some time,
19 may I just hand all of these physical exhibits up to
20 him, so that they're right in front of him, rather than
21 switching back and forth?

22 THE COURT: Yes.

23 MR. LINDQUIST: That might be --

24 May I approach, Your Honor?

25 THE COURT: Yes.

1 THE WITNESS: Thank you.

2 BY MR. LINDQUIST:

3 Q. Did you see 37B there?

4 A. Yes, sir, I do.

5 (Government's Exhibit No. 37B marked)

6 Q. Do you recognize that?

7 A. Yes, sir, I do.

8 Q. What is that?

9 A. This exhibit is a Ziploc bag containing crack
10 cocaine.

11 Q. And how does that relate to the December 21
12 transaction?

13 MR. HODGE: Objection, Your Honor. There's
14 been no identification.

15 THE COURT: Overruled.

16 THE WITNESS: Also on that date, Mr. Phillips
17 was again sent back into the Savan area.

18 BY MR. LINDQUIST:

19 Q. This is December 21?

20 A. Yes, sir.

21 Q. Okay.

22 A. On December 21, you're asking me -- okay.

23 Q. I'm asking you, this is 37B?

24 A. Yes, sir.

25 Q. You just identified the substances in the

1 photograph, 37A?

2 A. Yes.

3 Q. How does 37B relate to 37A?

4 A. It's the same substance.

5 Q. All right. When you placed -- when that package
6 was placed in the vault in evidence what was the -- just
7 describe the integrity of that package.

8 A. It was heat-sealed with integrity stickers on it.
9 It was intact.

10 Q. And at the time you're putting this stuff, this
11 drug evidence into the vault, who was responsible for
12 the evidence in the vault?

13 A. Special Agent Mike Aguilar.

14 Q. And give us an idea of the role of Mike Aguilar as
15 far as the evidence in the vault was concerned,
16 generally speaking?

17 A. Special Agent Mike Aguilar is what we call our drug
18 evidence custodian in the office. He's responsible for
19 taking custody of the evidence once it is sealed and
20 photographed. It's placed in the vault for safekeeping.
21 Then it is his responsibility to ensure that it is sent
22 out to our laboratory for analysis.

23 Q. Go ahead and set that aside, if you would, sir.

24 A. (Complies)

25 Q. Now I would like to refer you to December 28 of

1 2004.

2 A. Okay.

3 Q. Did another activity occur, as far as the
4 investigation was concerned?

5 A. Yes, sir. December 28, 2004, Mr. Phillips was
6 again given the objective to enter the Savan area of St.
7 Thomas to utilize \$400 of government funds to purchase
8 crack cocaine in the Savan area.

9 After Mr. Phillips was briefed as to what his
10 objective would be for that day, he was thoroughly
11 searched, audio and video digital devices were placed on
12 his body.

13 He was driven to the area of Windward Passage.
14 Prior to that surveillance, agents had established
15 themselves in the Savan area.

16 Mr. Phillips was then released from the vehicle and
17 walked on foot into the Savan area, where he again
18 purchased \$400 worth of crack cocaine from the same
19 source at Savan.

20 MR. HODGE: Objection. No identification, Your
21 Honor.

22 THE COURT: Overruled.

23 THE WITNESS: He was in the area for
24 approximately 10 to 15 minutes, again, before returning
25 to the vehicle.

1 Once Mr. --

2 BY MR. LINDQUIST:

3 Q. What happened then?

4 A. Once Mr. Phillips returned to the vehicle, he
5 immediately relinquished custody of the drug evidence to
6 me. He was searched again. The video and audio devices
7 were taken off his person.

8 He was again thoroughly debriefed as to all the
9 activities that took place during his meet in Savan.

10 We then drove to the office with the drug evidence
11 for processing.

12 Q. All right.

13 MR. LINDQUIST: Could we show 38A, please, for
14 identification.

15 (Government's Exhibit No. 38A marked)

16 BY MR. LINDQUIST:

17 Q. Do you see Exhibit 38A?

18 A. Yes, sir, I do.

19 Q. Physically what is that exhibit?

20 A. 38A is a photograph.

21 Q. Of what?

22 A. Of the individual Ziploc bags containing crack
23 cocaine which Mr. Phillips purchased for \$400.

24 Q. And how were you able to recognize that photograph?

25 A. It is in the same condition as the bags of crack

1 cocaine which were purchased by Mr. Phillips.

2 MR. HODGE: Objection.

3 BY MR. LINDQUIST:

4 Q. And does this fairly and accurately portray what
5 you received from Mr. Phillips on that day?

6 A. Yes, sir, it does.

7 MR. LINDQUIST: I offer 38A into evidence,
8 please.

9 MR. HODGE: Same objection, Your Honor.

10 THE COURT: Attorney Moore?

11 MR. MOORE: Objection, Your Honor.

12 THE COURT: All right. 38A is admitted.

13 (Government's Exhibit No. 38A admitted)

14 MR. LINDQUIST: And may we publish that?

15 BY MR. LINDQUIST:

16 Q. What are we seeing there as we look at 38A?

17 A. Again, sir, that is a photograph which accurately
18 shows the multiple Ziploc bags which Mr. Phillips bought
19 from a source in Savan containing crack cocaine.

20 MR. LINDQUIST: Thank you.

21 Can we have the lights back up.

22 Now, if you would look at one of those packages
23 there in front of you. Can you find 38B?

24 (Government's Exhibit No. 38B marked)

25 THE WITNESS: Yes, sir. I have 38B in front of

1 me here.

2 BY MR. LINDQUIST:

3 Q. All right. Do you recognize that?

4 A. Yes, sir, I do.

5 Q. What's that?

6 A. This is the evidence bag in which the crack cocaine
7 which was purchased on that date was sealed in.

8 Q. On December 28th of '04?

9 A. Yes, sir.

10 Q. What did you do with that drug evidence as far as
11 bagging it and preserving it that day?

12 A. This drug evidence was placed into a heat-sealed
13 envelope with an integrity sticker, initialed by myself.
14 It was then turned over to drug evidence custodian
15 Special Agent Mike Aguilar to be temporarily stored in a
16 vault before being sent to the laboratory for analysis.

17 Q. And when you turned it over to Aguilar for storage
18 in the vault, what was the packaging like as far as its
19 integrity?

20 A. It was perfectly intact, heat-sealed, initialed and
21 signed.

22 Q. Go ahead and set that aside, if you would.

23 Now I would like to refer you to January 18th of
24 2005. Did another event occur as far as this
25 investigation was concerned?

1 A. Yes, sir.

2 Q. What happened?

3 A. On that particular date, Mr. Phillips was again
4 brought to our office. Mr. Phillips was instructed by
5 us to place a phone call, this time to the source of
6 supply in Savan to arrange a meet to purchase
7 narcotics --

8 Q. Tell me -- just pause for a moment.

9 How is it now that Mr. Phillips is able to call
10 this individual, as far as you were concerned, your
11 knowledge?

12 A. Yes. During --

13 MR. HODGE: Objection. Hearsay.

14 THE COURT: Overruled. It's his knowledge.

15 THE WITNESS: Yes, sir.

16 During the last meet, which was December 28, 2004,
17 Mr. Phillips was able to acquire the phone number from
18 the source of supply in Savan.

19 BY MR. LINDQUIST:

20 Q. Okay. So as a result of the call that you made
21 using that phone number -- by the way, do you remember
22 that number?

23 A. Yes, I do.

24 Q. What's that number?

25 A. It's 340-344-6598.

1 Q. Okay. As a result of that call, what then
2 happened?

3 A. On January 17th, actually, Mr. Phillips came to the
4 office and made a call to the source of supply in Savan,
5 indicating that he was interested in buying narcotics.

6 As a result of that conversation, the following
7 day, January 18th --

8 THE COURT: Stop. Stop.

9 Come to sidebar.

10 (Sidebar discussion held as follows)

11 THE COURT: All right. The witness just said
12 something about the, what Phillips said or Phillips did.
13 Phillips made a call to request something, or something
14 to that effect.

15 That's not a coconspirator statement. That's
16 hearsay, is it not?

17 MR. LINDQUIST: No, because it's not being
18 offered for the truth of the matter asserted in it.
19 It's simply being offered to show that Phillips made a
20 call ordering up cocaine.

21 THE COURT: Well, it is for the truth of the
22 matter that he did call that specific number that's
23 attributable to someone who is the subject of
24 investigation, isn't it?

25 That is, you want to establish the point that that

1 person Mr. Phillips was calling was someone who is, I
2 guess, the source of the narcotics.

3 MR. LINDQUIST: Yeah, but this isn't hearsay,
4 and I can clarify it. The agent himself would have,
5 would have overseen the placement of that call to that
6 number.

7 THE COURT: All right.

8 MR. LINDQUIST: He would have done that
9 himself.

10 THE COURT: All right.

11 MR. HODGE: Your Honor --

12 THE COURT: Yeah.

13 MR. HODGE: I apologize. This is what I was
14 originally talking about with the hearsay. How does he
15 know that is the number that this guy was given? None
16 of that has been developed. It's just --

17 MR. LINDQUIST: Yes. He testified that as a
18 result of him coming back the prior time, Phillips gave
19 him a telephone number.

20 That's not hearsay. He gave him a number.

21 MR. HODGE: Yes, but where did Phillips get the
22 number?

23 THE COURT: Phillips gave a number to --

24 MR. LINDQUIST: To Goldfinger.

25 THE COURT: Goldfinger. All right.

1 MR. HODGE: And he got the number from?

2 THE COURT: All right. Did Goldfinger testify
3 that this was a number attributable to someone?

4 MR. LINDQUIST: He testified that he -- that in
5 getting the number from Phillips, then investigatively
6 his assumption was it was the number attributable to the
7 source, and they used that number to place a call.

8 THE COURT: Hold on one second.

9 (Pause; judge reviews record)

10 THE COURT: All right. It seems that the only
11 way that the witness would have -- would be by hearsay,
12 based on what's on the record. He said he got it from
13 the source.

14 The only way that -- unless Goldfinger was there
15 when he saw and observed the, Mr. Phillips getting the
16 number from the source, it would seem that the only way
17 he could get it is based on hearsay. Someone told him
18 that it was from the source, because the question was
19 asked how you got --

20 MR. LINDQUIST: That's fine.

21 THE COURT: So --

22 MR. LINDQUIST: We'll have Phillips testify
23 later, and he can relate that he got the number and gave
24 it to him.

25 THE COURT: All right. So I'm going to sustain

1 the objection with respect to the information about the
2 phone number.

3 MR. LINDQUIST: Okay. That's fine.

4 MR. HODGE: Thank you, Your Honor.

5 (End sidebar discussion, open court as follows)

6 THE COURT: All right. The objection is
7 sustained.

8 Ladies and gentlemen, you heard some testimony
9 about a phone number and the source of the phone number.

10 That portion of the testimony is to be disregarded
11 by you.

12 All right. Go ahead.

13 BY MR. LINDQUIST:

14 Q. Agent Goldfinger, as a result of the call on the
15 17th, you were taking us to the 18th. What happened
16 that day?

17 A. On January 18th, 2005, we again had Mr. Phillips
18 come to our office.

19 Mr. Phillips was again instructed to make a phone
20 call into the Savan source to arrange a meet to purchase
21 narcotics.

22 We instructed Mr. Phillips again that he would be
23 entering the Savan area, meeting with the same source in
24 Savan to purchase, this time \$600 government funds of
25 crack cocaine. Mr. Phillips was then thoroughly

1 searched.

2 He was provided with audio and digital video
3 equipment which was placed on his body.

4 We then drove Mr. Phillips to the Windward Passage
5 area on waterfront. Surveillance units again were
6 established, and Mr. Phillips walked on foot into the
7 Savan area and purchased the crack cocaine.

8 Q. What happened then?

9 A. Approximately 15 minutes later, Mr. Phillips then
10 returned to the same spot. We picked him up in our
11 vehicle.

12 Mr. Phillips immediately relinquished custody of
13 the drug evidence to me. He was searched and thoroughly
14 debriefed as to what took place during his meet in Savan
15 with the source.

16 He was then driven to our office along with the
17 narcotics, and the drugs were processed.

18 MR. LINDQUIST: Could the witness --

19 MR. HODGE: Objection, Your Honor. There's
20 been no identification.

21 THE COURT: Overruled.

22 MR. LINDQUIST: Could the witness be shown
23 39A-1 for identification, please.

24 (Government's Exhibit No. 39A-1 marked)

25 BY MR. LINDQUIST:

1 Q. Do you see 39A-1, Agent Goldfinger?

2 A. Yes, sir, I do.

3 Q. What is that?

4 A. That is a photograph showing a white clear sandwich
5 bag which contained crack cocaine, which was purchased
6 by Mr. Phillips in Savan on January 18th, 2005.

7 Q. And you indicated this is a photograph; is that
8 correct?

9 A. Yes, sir, I did.

10 Q. Does this photograph fairly and accurately portray
11 what Mr. Phillips gave you on that day?

12 A. Yes, it does.

13 MR. LINDQUIST: I offer it into evidence;
14 39A-1.

15 MR. HODGE: Same objection, Your Honor.

16 MR. MOORE: I join, Your Honor.

17 THE COURT: Okay. 39A-1 is admitted.

18 (Government's Exhibit No. 39A-1 admitted)

19 BY MR. LINDQUIST:

20 Q. Agent Goldfinger, tell us what we're seeing there.

21 A. That is a photograph of -- showing a white -- I'm
22 sorry -- a clear sandwich bag containing crack cocaine
23 which was purchased for \$600 of government funds by
24 Mr. Phillips from a source in Savan.

25 Q. Thank you.

1 MR. LINDQUIST: Have the lights back up,
2 please.

3 Now, Agent, take a look at one of the bags there in
4 front of you, 39A-2.

5 (Government's Exhibit No. 39A-2 marked)

6 BY MR. LINDQUIST:

7 Q. Can you find that?

8 A. 39A-2?

9 Q. Yes.

10 MR. HODGE: Your Honor, can I have a continuing
11 objection with respect to the references to crack
12 cocaine?

13 THE COURT: All right. Whenever you need to
14 object, just object.

15 BY MR. LINDQUIST:

16 Q. Do you have that?

17 A. Yes, I do, sir.

18 Q. Do you recognize it?

19 A. Yes, I do.

20 Q. What is 39A-2?

21 A. 39A-2 is a heat-sealed evidence envelope which
22 contains the crack cocaine which was purchased --

23 MR. HODGE: Objection.

24 THE COURT: All right.

25 Agent Goldfinger, the thing that's in 39A-2 at the

1 time when you received it, did you know it to be crack
2 cocaine, or just suspect it to be crack cocaine?

3 THE WITNESS: Yes, sir, suspected crack
4 cocaine.

5 THE COURT: All right. Go ahead. Use that
6 reference. Go ahead.

7 THE WITNESS: Yes, sir.

8 This is a heat-sealed envelope bag which contains
9 the suspected crack cocaine which was purchased by
10 Mr. Phillips on January 18th, 2005.

11 The integrity sticker is on top, where the bag is
12 sealed, with my initials on it.

13 BY MR. LINDQUIST:

14 Q. And the status of the bag at the time it went into
15 evidence on that occasion?

16 A. Yes. It appears --

17 Q. Intact?

18 A. Yes, sir.

19 Q. All right. Did anything else occur on that same
20 day?

21 Go ahead and set that aside.

22 MR. HODGE: Objection. Leading.

23 MR. LINDQUIST: Just introductory.

24 THE COURT: All right. Overruled.

25 THE WITNESS: Yes.

1 BY MR. LINDQUIST:

2 Q. What else happened that day?

3 A. On that same day, when Mr. Phillips brought this
4 particular exhibit to us and it was brought back to the
5 office, we weighed the suspected crack cocaine and
6 determined that the amount which Mr. Phillips purchased
7 was less than what he was supposed to have gotten from
8 the source in Savan.

9 Q. What, if anything, did you do in response to that?

10 A. We immediately had Mr. Phillips place another phone
11 call to the Savan source to let them know that he did
12 not receive the proper amount of suspected crack
13 cocaine.

14 Q. What happened then?

15 A. We then again searched Mr. Phillips, placed digital
16 and audio/video equipment on him, and drove him back to
17 the area of Windward Passage, where we sent him back
18 into Savan to meet with the source, again, to get the
19 remainder of the crack cocaine.

20 Q. What happened?

21 A. Mr. Phillips was out of the vehicle for
22 approximately 15 minutes. Soon after, he returned with
23 the remainder of the suspected crack cocaine.

24 Q. What happened then?

25 A. Again Mr. Phillips was thoroughly searched. The

1 drug evidence which he had purchased was relinquished to
2 me.

3 The digital audio/video devices were removed from
4 his person and we debriefed him thoroughly regarding the
5 events that took place and then returned to our office
6 to process the suspected crack cocaine.

7 MR. LINDQUIST: May the witness be shown
8 Exhibit 39B-1 for identification.

9 (Government's Exhibit No. 39B-1 marked)

10 BY MR. LINDQUIST:

11 Q. There's 39B-1 in front of you. Do you recognize
12 that?

13 A. Yes, sir, I do.

14 Q. What is it?

15 A. That is a photograph which depicts a picture of a
16 sandwich bag a, clear sandwich bag containing the
17 remainder of the suspected crack cocaine which
18 Mr. Phillips purchased on January 18th, 2005.

19 Q. Does 39B-1 fairly and accurately portray what you
20 beheld that day, what you got from Mr. Phillips?

21 A. Yes, sir, it does.

22 MR. LINDQUIST: I offer 39B-1.

23 MR. HODGE: Same objection, Your Honor.

24 THE COURT: Attorney Moore?

25 MR. MOORE: I join.

1 THE COURT: All right. 39B-1 is admitted.

2 (Government's Exhibit No. 39B-1 admitted)

3 MR. LINDQUIST: Thank you.

4 BY MR. LINDQUIST:

5 Q. Tell us what we're seeing as we look at 39B-1,
6 Agent Goldfinger.

7 A. 39B-1 -- 39B-1 sir, is a photograph showing a clear
8 sandwich bag knotted, which contains suspected crack
9 cocaine which Mr. Phillips received from the Savan
10 source.

11 Q. Thank you. Go ahead and set that aside.

12 MR. LINDQUIST: If we can have the lights back
13 up, please.

14 BY MR. LINDQUIST:

15 Q. Now, sir, I would like to refer you to -- let me
16 see, refer you to January 24 of 2005.

17 What happened with regard to the investigation on
18 that day?

19 A. January 24th, 2005, again, Mr. Phillips was brought
20 to our office.

21 We briefed Mr. Phillips on what his objective would
22 be for that particular day, which again would be to
23 place a phone call into the Savan source in order to
24 arrange the purchase of crack cocaine.

25 Mr. Phillips was provided with \$600 worth of

1 government funds.

2 At that time, Mr. Phillips was searched and again
3 equipped with audio and video digital equipment.
4 Surveillance units again established themselves in the
5 area of Savan to observe the purchase and to ensure the
6 safety of Mr. Phillips.

7 Mr. Phillips was then driven to the area of
8 Windward Passage, where he was let out of the vehicle,
9 and observed on foot traveling into Savan to purchase
10 suspected crack cocaine for \$600 worth of government
11 funds.

12 Q. All right.

13 What happened then?

14 A. Approximately 15 minutes later Mr. Phillips
15 departed the Savan area, was picked up in my vehicle.
16 Mr. Phillips immediately relinquished the drug evidence
17 to me. Mr. Phillips was then searched. The audio and
18 digital video equipment was removed from his person.

19 Mr. Phillips again was thoroughly debriefed as far
20 as the events and activities which took place between
21 him and the source in Savan.

22 We then returned to our office, where the drug
23 evidence was processed.

24 MR. LINDQUIST: Could we show the witness,
25 please, 40A for identification.

1 (Government's Exhibit No. 40A marked)

2 BY MR. LINDQUIST:

3 Q. There's 40A for identification, Agent Goldfinger.
4 What are we seeing?

5 A. Exhibit --

6 Q. What is that?

7 A. Exhibit 40A is a photograph showing a clear
8 sandwich bag containing the crack -- suspected crack
9 cocaine which Mr. Phillips purchased on the 25th of
10 January, 2005.

11 Q. Does that photograph fairly and accurately portray
12 what you obtained from Mr. Phillips that day?

13 A. Yes, sir, it does.

14 MR. LINDQUIST: I offer 40A into evidence,
15 please.

16 THE COURT: Attorney --

17 MR. HODGE: Same objection, Your Honor.

18 MR. MOORE: I join, Your Honor.

19 THE COURT: Okay. 40A is admitted.

20 (Government's Exhibit No. 40A admitted)

21 MR. LINDQUIST: May that be published?

22 BY MR. LINDQUIST:

23 Q. Tell us what we're seeing as we look at 40A.

24 A. 40A, sir, is a photograph showing a clear sandwich
25 bag, knotted, containing the suspected crack cocaine

1 which Mr. Phillips purchased from the source in Savan in
2 St. Thomas for \$600.

3 Q. Thank you.

4 MR. LINDQUIST: If we can have the lights back
5 up.

6 Take a look at 40B, a package there in front of
7 you.

8 (Government's Exhibit No. 40B marked)

9 BY MR. LINDQUIST:

10 Q. Can you find that?

11 A. Yes, sir.

12 Q. Do you recognize it?

13 A. Yes, sir, I do.

14 Q. Describe what that exhibit consists of.

15 A. 40B is a heat-sealed envelope which contains the
16 exhibit of suspected crack cocaine. It has an
17 integrity -- a signed integrity sticker on it.

18 Q. And just tell us what you did with that suspected
19 crack cocaine when you sealed it up that day?

20 A. Once the bag was sealed and signed, it was turned
21 over to -- excuse me -- to the drug evidence custodian,
22 Special Agent Mike Aguilar, who then placed it in the
23 vault for safekeeping pending transfer to the laboratory
24 for analysis.

25 Q. All right. Go ahead and set that aside.

1 Now Agent Goldfinger, I'm referring you to
2 February 15th of 2005. Did another event take place in
3 the investigation?

4 A. Yes, sir.

5 Q. What?

6 A. Again, Mr. Phillips was brought to our office,
7 again for the purpose to be briefed on purchasing more
8 crack cocaine from the source in Savan.

9 Mr. Phillips was requested by us to make a
10 controlled call to the Savan source, which he did, and
11 to arrange to purchase on this particular date, \$1,800
12 worth of suspected crack cocaine.

13 Q. What happened?

14 A. Again, Mr. Phillips was thoroughly searched. Audio
15 and digital video devices were placed on his person.

16 He was briefed to exactly what we wanted him to do,
17 which was to meet with this source and purchase \$1,800
18 worth of crack cocaine.

19 Surveillance units were established, again for the
20 safety of Mr. Phillips and for observation purposes.

21 Mr. Phillips was then driven to the area of
22 Windward Passage, released from the vehicle and sent
23 into the Savan area to meet with the Savan source.

24 Q. What happened?

25 A. Approximately 15 minutes later, Mr. Phillips was

1 then picked up by myself. He relinquished the drug
2 evidence to me immediately.

3 Again, Mr. Phillips was searched. The digital and
4 audio and video devices were removed from his person.
5 He was thoroughly debriefed as far as the events that
6 took place between him and the Savan source. And then
7 he, along with the narcotics, were driven to our office,
8 where the drugs were processed.

9 MR. LINDQUIST: Could the witness be shown
10 Exhibit 41A for identification, please.

11 (Government's Exhibit No. 41A marked)

12 BY MR. LINDQUIST:

13 Q. What are we seeing there?

14 What is that exhibit?

15 A. Exhibit 41A is a photograph which shows multiple
16 sandwich bags containing suspected crack cocaine which
17 was purchased by Mr. Phillips on February 15th, 2005 --

18 Q. Is the --

19 A. -- from the --

20 Q. Go ahead.

21 A. -- from the source in Savan.

22 Q. Does this photograph fairly and accurately portray
23 what you received from Mr. Phillips that day?

24 A. Yes, it does, sir.

25 MR. LINDQUIST: I offer 41A into evidence,

1 please.

2 MR. HODGE: Same objection, Your Honor.

3 MR. MOORE: Join, Your Honor.

4 THE COURT: Okay. 41A is admitted.

5 (Government's Exhibit No. 41A admitted)

6 BY MR. LINDQUIST:

7 Q. Agent Goldfinger, tell us what we're seeing here on
8 41A.

9 A. 41A, sir, is a photograph which shows multiple
10 sandwich bags containing suspected crack cocaine which
11 was purchased on February 15th, 2005, for 1,800 of
12 government funds, from a source in Savan.

13 Q. All right. Thank you.

14 MR. LINDQUIST: If we could have the lights
15 back up.

16 BY MR. LINDQUIST:

17 Q. Now there in front of you, do you see an exhibit
18 that has "41B" on it?

19 A. Yes, I do, sir.

20 (Government's Exhibit No. 41B marked)

21 BY MR. LINDQUIST:

22 Q. And do you recognize that?

23 A. Yes, I do.

24 Q. What is that?

25 A. 41B is the suspected crack cocaine which was

1 purchased on February 15th, 2005. It is inside a
2 heat-sealed envelope bag with my initials on it.

3 Q. Describe the bag as it went into evidence on that
4 particular day.

5 A. It looks the same as it did on that particular day,
6 sealed with an integrity sticker. The integrity sticker
7 is still in place with my initials and name on it.

8 Q. Agent Goldfinger, with regard to these exhibits
9 that you've looked at, meaning the bags --

10 A. Yes, sir.

11 Q. -- and I'm referring to 36B, 37B, 38B, 39A-2,
12 39B-2, 40B, and 41B --

13 A. Yes, sir.

14 Q. -- what, if any, involvement did you have as far as
15 those packages were concerned and being sent to the lab?

16 A. My involvement was, once, once I placed the drug
17 evidence into the bag, sealed it, initialed it, all the
18 bags were then turned over to the evidence custodian,
19 Special Agent Mike Aguilar.

20 From that point it was his responsibility to safely
21 secure it in our drug vault and then have it sent to our
22 laboratory for analysis and safekeeping.

23 Q. All right.

24 Now I need to have you back up --

25 MR. LINDQUIST: And if I may, Your Honor.

1 Your Honor, may I approach the witness?

2 THE COURT: Is it a single item that we can all
3 see?

4 MR. LINDQUIST: It's multiple and packaged, and
5 I think he would be better off handling it.

6 THE COURT: All right. Approach. Go ahead.

7 BY MR. LINDQUIST:

8 Q. Agent Goldfinger, referring back to the events of
9 December 7, 2004, you indicated, did you not, that there
10 was an audio/video recording device involved?

11 A. Yes, sir.

12 Q. Do you recognize those exhibits that have been
13 placed before you there, 36B-1 and 36B-2?

14 A. Yes. These are the CDs that contain the audio and
15 video evidence.

16 (Government's Exhibit Nos. 36B-1, 36B-2 marked)

17 BY MR. LINDQUIST:

18 Q. How do you know that?

19 A. Because my name is on it, and -- indicating the
20 exhibit and the date.

21 Q. All right. So 36B-1 is what?

22 What is that, as far as the -- just look at 36B-1.

23 A. Okay. Yes, sir.

24 Q. Just concentrate on that. That is what, as far as
25 that recording is concerned?

1 A. That is the copy of the recording.

2 Q. Now when you say a "copy of the recording,"
3 describe what you would do, how that apparatus would
4 work, as far as your obtaining a recording.

5 MR. HODGE: Objection, leading.

6 THE COURT: Overruled.

7 THE WITNESS: The initial recording is a
8 digital recording. So in order to make a copy it has to
9 be transferred through a computer system onto a CD.

10 BY MR. LINDQUIST:

11 Q. Did you do that?

12 A. Yes, I did.

13 Q. Okay. What did you do?

14 A. It's a basic process of just plugging the device
15 into the computer, and burning it onto a CD.

16 Q. So that Exhibit 36B-1, that you have there, is that
17 the burned CD that you created?

18 A. Yes, sir, it is.

19 Q. All right. How does that, 36B-1, relate to the
20 digital recorder?

21 Any alterations, adjustments or deletions as far as
22 that is concerned?

23 A. It's the exact recording from start to finish, from
24 the original.

25 Q. Once you did that download and came up with 36B-1,

1 what, if anything, did you do with it as far as
2 preserving it as evidence?

3 A. It was placed in an evidence bag and sealed.

4 Q. Before you placed it in the evidence bag and sealed
5 it, did you do anything else as far as making any other
6 copies?

7 A. Yes. Another copy was made.

8 Q. Take a look at 36B-2. Tell us if you recognize
9 that.

10 A. Yes, sir.

11 Q. Okay. And what's 36 -- just look inside there.
12 Do you recognize 36B-2?

13 A. Yes, sir, I do.

14 Q. What is that?

15 A. These are copies of Exhibit 36B-1.

16 Q. Okay. And how did you make that copy?

17 A. Using a CD burner, just made an exact duplicate of
18 the original copy.

19 Q. Any alterations or deletions, as far as the 36B-2
20 is concerned in relation to 36B-1?

21 A. No, sir. It's exact.

22 Q. All right. Just go ahead and put that back inside
23 that package, if you will.

24 A. (Complies)

25 Q. And I'm showing you one more --

1 MR. LINDQUIST: May I, Your Honor?

2 THE COURT: Yes.

3 MR. LINDQUIST: That's 36B-3.

4 (Government's Exhibit No. 36B-3 marked)

5 BY MR. LINDQUIST:

6 Q. Do you see that?

7 A. Yes, sir, I do.

8 Q. Do you recognize that?

9 A. Yes, I do.

10 Q. What's that?

11 A. This is a CD which contains the, a recording from
12 January -- this is the recording from the original
13 digital video device.

14 Q. Okay. The trial disk; is that correct?

15 A. Yes, sir.

16 Q. And how do you know that?

17 A. Because of the, my initials are on it and it's
18 dated, and it's exactly as I remember seeing it when I
19 reviewed it.

20 Q. What's the content of that 36B-3 in relation to
21 36B-2 and 36B-1?

22 A. It is the audio recording.

23 Q. Any difference?

24 A. No, no, no difference at all. Exact replicate.

25 Q. All right. Go ahead and set that aside, if you

1 would.

2 A. (Complies)

3 Q. Agent Goldfinger, after the transaction that
4 occurred on February 15th of 2005, just generally
5 speaking, where did the investigation go?

6 A. From that point, sir, the investigation started
7 going towards the Title III investigation.

8 Q. What do you mean by a Title III investigation?

9 A. Title III investigation, more commonly known as a
10 wiretap investigation, is where we're able to monitor
11 and listen to phone conversations by people we are
12 investigating.

13 Q. What allowed you to go from the Savan transactions
14 to a Title III component of your investigation?

15 A. The controlled phone calls which were being made
16 between the confidential informant and the source of
17 supply in Savan.

18 Q. Just generally speaking, tell us how you go about
19 doing a Title III investigation.

20 A. Mechanically, technically?

21 Q. Yeah. What steps you took initially in this
22 Title III investigation. What did you do?

23 A. Well, the purchases were made, an affidavit was
24 written, and --

25 Q. So an application is made to whom?

1 A. To the judge, sir.

2 Q. All right. And what happens then?

3 A. We received a signed court order from the judge,
4 and we were then able to receive the audio conversations
5 taking place between whoever the subject of our
6 investigation is and the people which he's speaking to.

7 Q. And were you personally involved in this particular
8 aspect?

9 A. Yes, sir, I was.

10 Q. What was your role in this particular phase?

11 A. I was in charge of the wire room; wire room
12 supervisor.

13 Q. When you say "wire room," what are you referring
14 to?

15 A. The wire room is a particular room which, during a
16 Title III investigation or wiretap investigation, is
17 secluded from all other parts of the office; a locked
18 room where only people who have been, what's called
19 minimized, are allowed to enter that room and listen to
20 monitored conversations.

21 Q. All right. Are you familiar with the, with that
22 particular type of operation?

23 A. Yes, sir, I am.

24 Q. Had you -- prior to this time had you been involved
25 in that before?

1 A. Multiple times.

2 Q. Okay. Were you familiar with the particular
3 mechanical equipment that was involved in that at that
4 particular time?

5 A. Yes, sir, I was.

6 Q. How is it that you were familiar with that?

7 A. From working numerous other Title III
8 investigations.

9 Q. In addition to working other Title III
10 investigations, had you received formal training as far
11 as how to deal with that machinery, operate that
12 machinery?

13 A. Yes, sir; not only in my basic agent training
14 classes did we go through Title III training, but I've
15 taken multiple courses in telecommunications and
16 Internet telecommunications and monitoring of Title
17 III's.

18 Q. Okay. Tell us what happened as far as going up on
19 the first telephone interception.

20 A. In April 2005, we began our first wiretap intercept
21 on the phone number, on the Savan source.

22 Q. And how did it begin?

23 How -- describe mechanically how the equipment was
24 set up and your involvement in that.

25 A. Well, the equipment is actually turned on by a

1 technical assistant who worked for DEA.

2 Q. Who is the assistant that helped you on this
3 situation?

4 A. David Velez.

5 Q. All right. What happened?

6 A. Mr. Velez came to our office, to our wire room. He
7 installed what's called magnetic optical disks, also
8 known as MO disks.

9 Q. Were you there?

10 A. Yes, sir, I was.

11 Q. Okay.

12 A. A test was done to make sure that the equipment was
13 working properly. And then it's turned on, and we
14 listened.

15 Q. And for how long did you listen on this first wire
16 interception?

17 A. The first wire interception lasted 30 days.

18 Q. Just describe how that went forward day by day in
19 the wire room, how it would work?

20 A. What would happen is you sit in the wire room and
21 you hear -- the machine turns on when incoming calls are
22 being made. And the machine turns on when outgoing
23 calls are being made.

24 Typically, the phone numbers that are being dialed
25 and received show up on our computer screen. And as the

1 conversations take place, we are able to listen to the
2 conversations and type on the computer exactly what's
3 being said during those conversations.

4 Q. And the conversations are recorded onto what
5 medium?

6 A. The magnetic optical disk which I referred to, an
7 MO disk.

8 Q. Are you familiar with the term "minimization"?

9 A. Yes, sir, I am.

10 Q. What is minimization?

11 A. A minimization is a term which allows agents to
12 listen to a call for a certain amount of time. If the
13 call at a certain amount of time is not deemed to be
14 what would be considered criminal nature or involved in
15 criminal activity, we are then required by law to
16 minimize that call. When I say "minimize," that means
17 there's a button you push. The call is muted. We can't
18 hear the conversation anymore.

19 We are then allowed to let the call stay muted for
20 a particular amount of time before we then can turn the
21 call back on and listen again, to see if that call then
22 transpired to a conversation of criminal nature.

23 Q. And did minimization occur with regard to this
24 first telephone interception?

25 A. Yes, sir, it did.

1 Q. How do you know that?

2 A. Because I was there and took part, and very often
3 was the one who determined whether or not to minimize
4 the phone calls.

5 Q. After the period of time involved in the
6 interception took place, what was done as far as that,
7 that interception ending?

8 A. Once the, that particular interception was done,
9 the MO disk was removed.

10 Q. Who and how -- who was involved and how was that
11 done?

12 A. Again, our technical assistant, David Velez, came
13 over, removed the magnetic optical disk from the system
14 for us.

15 Q. Were you present?

16 A. Yes, I was.

17 Q. Okay.

18 A. It was immediately placed into an evidence bag,
19 which was then sealed.

20 Q. All right. Who sealed that?

21 A. It was sealed in front of, I sealed it in front of
22 the judge, sir.

23 Q. Okay. And when you say sealed it, meaning what?

24 A. It's put in a heat-sealed evidence bag, an
25 integrity sticker is put over it, signed by myself, and

1 then sealed shut.

2 Q. After that was done, was there another phase of the
3 wire, of a wire intercept?

4 A. Yes, sir, there was.

5 Q. Different number, same number?

6 A. It was a different number, sir.

7 Q. How is it that you then went up on a different
8 number?

9 A. During the course of a Title III investigation, as
10 you intercept calls deemed to be criminal activity, you
11 learn who your subjects are speaking to.

12 If you are able to observe an individual who you
13 believe is also engaged in criminal activity, you can
14 then roll up onto that next phone, which is what we did
15 in this case.

16 Q. So the first phone, as far as your investigation is
17 concerned, was directed towards what level of individual
18 trafficker?

19 A. Street level to mid-level drug trafficker.

20 Q. And the second telephone?

21 A. Second telephone was, I would say, between
22 mid-level to a higher-level drug trafficker.

23 Q. And what procedures were followed -- first of all,
24 how long did this second telephone interception last?

25 A. The second telephone interception also lasted for a

1 period of 30 days.

2 Q. Was your role -- did your role remain the same?

3 A. Yes, sir, it did.

4 Q. Did the same minimization take place?

5 A. Yes, it did.

6 Q. Was the same procedure involved as far as setting
7 up the MO disk and retrieving them?

8 A. Exactly the same, yes.

9 Q. And who else was involved as far as the tech person
10 in that process?

11 A. Mr. David Velez.

12 Q. When the MO disk was removed on this particular
13 location, tell us about that?

14 A. Same thing. The MO disk -- Mr. Velez came to the
15 wire room that particular day, removed the MO disk. I
16 held open an evidence bag. It was dropped directly from
17 the machine into the evidence bag, which was then
18 initialed by myself, the judge, and heat-sealed.

19 Q. All right. Very good.

20 Was there another interception after that?

21 A. Yes. There was a third interception.

22 Q. And how did that come about?

23 A. Same as the second interception. Again, calls were
24 listened to --

25 Q. No. What I'm referring to is, how is it that you

1 came to a third telephone interception?

2 Why didn't you stop with the second one?

3 A. Because as we listened to the conversations on the
4 second line, it was determined that there was a person
5 who was a higher-level drug trafficker than the
6 individual who we were listening to on the second line.

7 Q. All right. And tell us what procedures were
8 followed as far as this third telephone interception was
9 concerned.

10 A. It was same as the other two lines, as far as
11 minimization procedures are concerned. The equipment
12 was again put together by Mr. David Velez, as far as
13 installing a new magnetic optical disk. The calls were
14 listened to. They were minimized. They were listened
15 to when they were deemed phone calls containing criminal
16 activity.

17 Q. And when the interception ended, what was done?

18 A. The system was shut down. Mr. Velez came over,
19 again removed the magnetic optical disk, which was
20 placed, again, in an evidence bag held by me,
21 heat-sealed, signed by myself and by the judge.

22 MR. HODGE: Objection, Your Honor. Vouching.

23 THE COURT: Overruled.

24 MR. LINDQUIST: Your Honor, may I approach the
25 witness with some exhibits?

1 THE COURT: Yes.

2 MR. LINDQUIST: Agent Goldfinger, take a look
3 at Exhibit 42A.

4 (Government's Exhibit No. 42A marked)

5 BY MR. LINDQUIST:

6 Q. Do you recognize that?

7 A. Yes, sir, I do.

8 Q. What is that?

9 A. Exhibit 42A is the magnetic optical disk contained
10 from the first 30 days of wiretap interceptions.

11 Q. What telephone number did that involve?

12 A. Area Code 340-344-6598.

13 Q. How are you able to recognize that particular
14 exhibit?

15 A. The exhibit contains my writing on the exhibit. It
16 contains my writing and initials on the evidence bag and
17 it contains the signature of the judge at the
18 heat-sealed area.

19 Q. Has there been any change of that packaging as you
20 look at it right now from when you sealed it up?

21 A. No, sir, there has not.

22 Q. Prior to sealing it up, did you do anything as far
23 as making another copy?

24 A. Yes, sir.

25 Q. Why do you that?

1 A. Because the magnetic optical disk is not the type
2 of medium that can be played outside of the computer
3 which it records in.

4 MR. LINDQUIST: Take a look at 42B.

5 (Government's Exhibit No. 42B marked)

6 BY MR. LINDQUIST:

7 Q. Do you recognize that?

8 A. Yes, sir, I do.

9 Q. What's 42B?

10 A. 42B is a CD which contains all the calls that were
11 contained on the magnetic optical disk.

12 Q. How do you know that?

13 A. Because it is the CD which I used to make the copy
14 and it has my handwriting on it.

15 Q. As far as the content of 42B in relation to 41A,
16 what is it?

17 A. Exact.

18 Q. Any additions, alterations or deletions?

19 A. No, sir.

20 Q. All right. How many -- give us an idea, if you
21 can, how many calls, intercepted calls, are contained on
22 the MO disk 41 -- or excuse me -- 42A. Any idea?

23 A. Hundreds.

24 Q. Okay. All right.

25 Now take a look at -- and excuse me. And that

1 Exhibit 42 -- those Exhibits 42A and 42B, they
2 correspond to which, which of the three telephones that
3 you've talked about, the first, second or the third?

4 A. The first, sir.

5 Q. Okay. Go ahead, and set that aside, if you will.

6 A. (Complies)

7 MR. LINDQUIST: Now look at 43A.

8 (Government's Exhibit No. 43A marked)

9 BY MR. LINDQUIST:

10 Q. Do you recognize that?

11 A. Yes, sir, I do.

12 Q. What's 43A?

13 A. 43A, again, is the magnetic optical disk from the
14 second 30 days of Title III intercepts which were made.

15 Q. All right. How do you know that?

16 A. The magnetic optical disks contains my handwriting
17 on it. The bag which it is heat-sealed in contains my
18 signature and my initials and the signature of the judge
19 at the heat-sealed area.

20 Q. Is there any difference between what you're holding
21 there and what you sealed up on the day that you've
22 indicated?

23 A. No, sir.

24 Q. Prior to -- and that deals with what telephone
25 number?

1 A. 954-558-6188.

2 Q. Prior to sealing that up, did you make a copy?

3 A. Yes, sir, I did.

4 Q. How did you go about doing that?

5 A. The copy was made directly off the computer and
6 burned onto a compact disk.

7 Q. Do you see 43B there?

8 A. Yes, sir, I do.

9 (Government's Exhibit No. 43B marked)

10 BY MR. LINDQUIST:

11 Q. What's 43B?

12 A. 43B is the CD which contains the copy of all the
13 calls from the magnetic optical disk for phone number
14 954-558-6188.

15 Q. Were any alterations, addition, or deletions made
16 with regard to 43B in relation to 43A?

17 A. No, sir.

18 Q. Identical, is that correct?

19 A. It's all identical, yes.

20 Q. Now these two exhibits, 43A and 43B, which of the
21 two -- of the three calls did they correspond to -- not
22 calls -- of the three telephones?

23 A. The second one, sir.

24 Q. Thank you.

25 Go ahead and set that aside, if you would.

1 A. (Complies)

2 MR. LINDQUIST: And then take a look at the
3 file containing 44A.

4 (Government's Exhibit No. 44A marked)

5 BY MR. LINDQUIST:

6 Q. Do you recognize 44A?

7 A. Yes, sir.

8 Q. What's that?

9 A. 44A is the magnetic optical disk which was removed
10 for the third line which we monitored.

11 Q. Just look at 44A for right now.

12 A. Okay. I'm sorry.

13 Q. That's the, that's the MO disk?

14 A. Yes, sir.

15 Q. The condition of that packaging, is it different
16 now from when you sealed it up?

17 A. No, sir, it's not. It has my signature on it, my
18 initials, my signature and the judge's signature at the
19 heat-sealed area of the envelope.

20 Q. All right. And what telephone number does that
21 correspond to?

22 A. 787-934-1177.

23 Q. Thank you.

24 MR. LINDQUIST: Now take a look at 44B.

25 (Government's Exhibit No. 44B marked)

1 THE WITNESS: Okay.

2 BY MR. LINDQUIST:

3 Q. What's 44B?

4 A. 44B is the CD containing the calls which were
5 downloaded from the MO disks, 44A.

6 Q. What's the content relationship between 44B and
7 44A?

8 A. Identical.

9 Q. How do you know that?

10 A. I made the copy. My initials, I'm sorry, not my
11 initials but my handwriting around the CD for the copy.

12 Q. Any additions, alterations or deletions?

13 A. No, sir.

14 Q. All right. Just go ahead and set those aside for a
15 moment, if you will.

16 A. (Complies)

17 MR. LINDQUIST: Now if we could put up
18 Exhibit 33 for identification, please.

19 (Government's Exhibit No. 33 marked)

20 BY MR. LINDQUIST:

21 Q. Agent Goldfinger, going back to the activities of
22 the investigation in the Savan area and Mr. Phillips,
23 I'm going to ask you if you recognize this particular
24 exhibit.

25 Do you see Exhibit 33 there?

1 A. Yes, sir, I do.

2 Q. What's that?

3 A. That is a confidential source agreement made
4 between myself and Mr. Phillips.

5 Q. What's a confidential source agreement?

6 A. When agents from DEA establish someone that's
7 called a confidential source or a confidential
8 informant, they enter into a contract with us. The
9 agreement basically states what we expect from them and
10 what they can expect from us.

11 Q. All right. Is there a second page to that?

12 MR. LINDQUIST: Let's put up the second page;
13 make sure that you recognize that.

14 BY MR. LINDQUIST:

15 Q. Do you see that?

16 A. Yes, sir, I do.

17 Q. Do you recognize any signatures there?

18 A. Yes, I do.

19 Q. Whose?

20 A. I recognize the signature of Mr. Theodore Phillips.

21 Q. How do you recognize his signature?

22 A. I've seen it. He signed it in front of me.

23 Q. Okay.

24 A. The other signatures on there is my signature, and
25 the other signature is that of Special Agent Kevin

1 Adams.

2 Q. And the date of your signature and that of
3 Mr. Phillips?

4 A. Both are October 14th, 2004.

5 Q. All right. When this was filled out, it was at
6 your behest and direction; is that correct?

7 A. Yes, sir, it was.

8 Q. When you created this agreement, was that done in
9 the regular course of your work as a DEA agent?

10 A. Yes.

11 Q. Is it the regular practice of DEA to have these
12 types of documents, agreements filled out in relation to
13 people working like Mr. Phillips?

14 A. Yes, very common.

15 MR. LINDQUIST: Your Honor, I offer Exhibit 33
16 into evidence, please.

17 THE COURT: Attorney Hodge?

18 MR. HODGE: Same objection as before.

19 THE COURT: Attorney Moore?

20 MR. MOORE: Your Honor, I have no objection,
21 except potentially publication to the jury.

22 THE COURT: All right. I'm going to take it
23 under advisement.

24 BY MR. LINDQUIST:

25 Q. Now, Agent Goldfinger --

1 MR. LINDQUIST: Let's put up Exhibit 34.

2 BY MR. LINDQUIST:

3 Q. And as that's coming up, Agent Goldfinger, what, if
4 any, compensation did Mr. Phillips receive?

5 A. Mr. Phillips received compensation for purchases he
6 made for the Drug Enforcement Administration.

7 Q. And for what? What was he compensated for?

8 A. For his work for us.

9 Q. Give us an idea of what aspects of his work were
10 compensated for.

11 A. The idea of going into the Savan area, purchasing
12 suspected crack cocaine, also reimbursements for
13 expenses which he had made.

14 Q. Okay.

15 (Government's Exhibit No. 34 marked)

16 BY MR. LINDQUIST:

17 Q. Do you see Exhibit 34 there?

18 Do you see the Exhibit 34?

19 A. I'm sorry. I was looking for it on the list.

20 Yes, I see Exhibit 34.

21 Q. Do you recognize that?

22 A. Yes, sir, I do.

23 Q. What is that?

24 A. That is a payment record for Mr. Phillips.

25 Q. Okay. And it consists of a number of entries; is

1 that correct?

2 A. Yes, sir, it does.

3 Q. Who created this?

4 A. This was created by me.

5 Q. And at the time you created it, was the information
6 fresh on your mind, so you had good knowledge of what
7 you were putting into this document?

8 A. Yes, sir, I did.

9 Q. Did you create this document as part of your
10 regular work as a DEA agent?

11 A. Yes, sir, I did.

12 Q. Is it the regular practice of DEA to have this type
13 of document created in relation to compensation going to
14 an individual like Mr. Phillips?

15 A. Yes, it is.

16 MR. LINDQUIST: Now I would like you to take a
17 look at -- we'll just do them one at a time -- Exhibits
18 34A through 34H.

19 (Government's Exhibit Nos. 34A through 34H marked)

20 BY MR. LINDQUIST:

21 Q. Let's just do them one at a time, and tell us if
22 you -- there's 34A. Do you recognize that?

23 A. Yes, I do.

24 Q. What is that?

25 A. That's a payment voucher that we use to reimburse

1 an informant money.

2 Q. And a payment voucher corresponding to what
3 individual?

4 A. Mr. Phillips.

5 Q. How does this relate to the compensation record
6 that we were just looking at Exhibit 34?

7 A. It's just the, what's shown here is just listed on
8 Exhibit 34.

9 Q. So this is one of the items listed; is that
10 correct?

11 A. Yes, sir.

12 Q. All right. Let's look at 34B. What's that?

13 A. That's the same thing. It's what we call a DEA
14 Form 103. It's a voucher.

15 Q. So, another voucher?

16 A. A voucher, yes, which shows reimbursement of
17 payment to Mr. Phillips.

18 Q. How does this relate to the compensation record,
19 Exhibit 34?

20 A. Again, it's listed on Exhibit 34.

21 Q. Let's look at 34C. Do you recognize that?

22 A. Yes, sir, I do. This is also a DEA Form 103 which
23 is a voucher form, which verifies reimbursement payments
24 to Mr. Phillips.

25 Q. And how does it relate to Exhibit 34?

1 A. Again, it's listed on Exhibit 34.

2 MR. LINDQUIST: 34D, please.

3 BY MR. LINDQUIST:

4 Q. Do you recognize 34D?

5 A. Yes, I do.

6 Q. Another voucher; is that correct?

7 A. Yes, 34D is another DEA 103 voucher form.

8 Q. Relating to whom?

9 A. Mr. Theodore Phillips?

10 Q. And how does it relate to Exhibit 34, the
11 compensation record?

12 A. It's again listed on Exhibit 34.

13 Q. 34E, what is that?

14 A. 34E is also a DEA 103 voucher form, indicating
15 payment of reimbursement funds to Mr. Phillips. Also
16 listed on the previous exhibit.

17 Q. 34F?

18 THE COURT: Are F, G, and H pretty much the, of
19 the same ilk that you can present them all to the
20 witness and have him speak collectively about them?

21 MR. LINDQUIST: We could. I would just need to
22 pull them from there.

23 THE COURT: All right. If you can -- or you
24 can just flash through them now with the witness.

25 BY MR. LINDQUIST:

1 Q. Let's look at 34- -- exhibit 34G and then 34H. Do
2 you see those?

3 A. Yes, sir, I do.

4 Q. All vouchers?

5 A. All vouchers.

6 Q. All contained in the compensation record?

7 A. Yes, sir, they are.

8 Q. Were these vouchers all created by you?

9 A. Yes, sir.

10 Q. And were they created as part of DEA work?

11 A. Yes, they are.

12 Q. Is it the regular practice of DEA to create these
13 types of things?

14 A. Yes, regular practice.

15 MR. LINDQUIST: I offer Exhibit 34, and 34A
16 through -H, please.

17 MR. HODGE: Your Honor, no objection to 34. I
18 do object to 34A through -H on 304 [sic] grounds.

19 MR. MOORE: Your Honor, I join in -- I'm sorry.
20 I join in co-counsel's objection.

21 THE COURT: All right. Exhibit 34 is in.

22 (Government's Exhibit No. 34 marked)

23 THE COURT: 34A through -H is under advisement.

24 MR. LINDQUIST: Thank you.

25 May we publish 34?

1 THE COURT: Yes. It's not on the screen,
2 though.

3 BY MR. LINDQUIST:

4 Q. Now we're looking at 34, Agent Goldfinger. Just
5 tell us what that is.

6 A. That is a payment record for Mr. Phillips.

7 Q. All right. And the entries there correspond to the
8 vouchers that you've just testified to, is that correct?

9 A. Yes, sir, they do.

10 Q. All right. Thank you.

11 MR. LINDQUIST: If we could have the lights
12 back up.

13 Your Honor, if you could give me just a moment.

14 (Pause)

15 MR. LINDQUIST: Agent Goldfinger, Your Honor,
16 thank you. Those are all the questions I have.

17 THE COURT: Thank you.

18 Ladies and gentlemen, this is a good time for our
19 afternoon break. We will take a 15-minute break.

20 (Jury not present, 3:55 p.m.)

21 MR. HODGE: Your Honor, that last objection
22 should have said 4- --

23 THE COURT: Stop. Stop.

24 All right. Agent Goldfinger, you remain under
25 oath. Do you understand?

1 THE WITNESS: Yes, sir, I do.

2 THE COURT: All right. We're going to take a
3 break for 15 minutes. You need to resume to the witness
4 stand in 15 minutes.

5 Do you understand?

6 THE WITNESS: Yes, sir.

7 THE COURT: All right. Do not discuss your
8 testimony in the interim.

9 Do you understand?

10 THE WITNESS: Yes, Your Honor.

11 THE COURT: All right. Thank you.

12 (Witness stood aside)

13 THE COURT: Yes, Attorney Hodge?

14 MR. HODGE: I was just saying that I believe --

15 THE COURT: Attorney Hodge, if it's not too
16 much of a problem, could you stand up?

17 MR. HODGE: Sorry, Your Honor.

18 Before, I believe I might have said 304. I meant
19 to say 403, in my last objection.

20 THE COURT: Yes. I thought that's what you
21 meant.

22 All right. All right. Anything else?

23 MR. LINDQUIST: Yes, Your Honor, one item, very
24 quickly, if we may.

25 With regard to Mr. Isaac, I understood counsel to

1 say that they wanted him to remain the day. I would ask
2 that he be released after today, so that the marshals
3 can get him off-island.

4 THE COURT: All right. I think it was Attorney
5 Moore who said just for --

6 MR. MOORE: Yes, Your Honor. There's a,
7 especially in the comment regarding him being in a car,
8 driving with Mr. Mark and Mr. Blyden in 2004. That kind
9 of a comment was to have been some matter that would
10 have or should have been reflected, we believe, in a
11 prior discovery.

12 It was involving a transaction involving the Red
13 Ball or one of the other two cases. And when we scanned
14 and went through, I may have made a representation in
15 some of my pretrial motions that my client's name never
16 appeared in any of the materials.

17 But we were able to ascertain in conjunction with
18 those two cases, and I want to go back and compare
19 specifically that conversation and specifically that
20 matter which I just pled surprise on.

21 THE COURT: All right. And that's something
22 you said that you will undertake this evening, correct?

23 MR. MOORE: In fact, Your Honor, I note that
24 for another reason we were scanning those records again
25 in my office, when I went back at lunchtime to request

1 it.

2 THE COURT: All right. So, the bottom line is
3 that we'll know by either -- when we're done today or by
4 tomorrow morning; is that correct?

5 MR. MOORE: Your Honor, you'll know by perhaps
6 tomorrow noon, if the Court can give me -- here is my
7 problem, Your Honor.

8 THE COURT: All right. I just need to know a
9 time.

10 MR. MOORE: I would say by tomorrow noon.
11 Because I'm going to be here or -- a bit between now and
12 then.

13 THE COURT: All right. 'Til tomorrow at noon,
14 then.

15 All right. Thank you, Counsel.

16 (3:58 p.m., court in recess)

17 (After recess, jury present, 4:16 p.m.)

18 (Witness resumed stand)

19 THE COURT: Attorney Hodge?

20 THEREUPON, MICHAEL GOLDFINGER, previously duly
21 sworn, was examined and testified further as follows:

22 CROSS-EXAMINATION

23 BY MR. HODGE:

24 Q. Good afternoon, Mr. Goldfinger.

25 A. Good afternoon, sir.

1 Q. In your testimony before you identified a number of
2 CD's and magnetic optical disks.

3 A. Yes, sir.

4 Q. And you indicated that they -- there have been no
5 additions, deletions or changes to those, the content of
6 those disks. Was that, was that your testimony?

7 A. I'm sorry, was that my what?

8 Q. Testimony.

9 A. Yes, sir.

10 Q. How can you tell, looking at the disks, that there
11 have been no deletions, additions or changes to the
12 content of the disks?

13 A. Because I have reviewed every call on all disks
14 before submitting them.

15 Q. When did you submit them?

16 A. When they were downloaded from the computer.

17 Q. In 2004?

18 A. Yes, sir, 2004, 2005.

19 Q. And now it's 2010?

20 A. Yes, sir.

21 Q. And you're looking at them, disks, right now. And
22 I'm saying, as you look at those disks, how do you know
23 that there are no deletions, additions or changes on
24 those disks?

25 A. Because the copy disk was reviewed by me and dated

1 on the date that I reviewed it again.

2 Q. When was that?

3 A. Well, on this, I mean, there's different exhibits
4 here, but on this particular exhibit it says January
5 31st, 2009, my initials.

6 Q. So a year and a half ago?

7 A. Yes, sir.

8 Q. How do you know that it's, that disk has no
9 additions, deletions or changes since January of 2009?

10 A. Because this was sealed in evidence, and it has not
11 been tampered with or touched since.

12 MR. HODGE: Your Honor, I move to exclude all
13 of the CDs and magnetic optical disk.

14 THE COURT: Nothing has been moved into
15 evidence. None of those items have been moved in.

16 MR. HODGE: Very well, Your Honor.

17 Court's indulgence?

18 THE COURT: Yes.

19 (Pause)

20 MR. HODGE: Nothing further. Thank you, sir.

21 THE COURT: Thank you.

22 Attorney Moore?

23 MR. MOORE: Just a few questions, Your Honor.

24 FURTHER CROSS-EXAMINATION

25 BY MR. MOORE:

1 Q. Good afternoon, Agent Goldfinger.

2 A. Good afternoon, sir.

3 Q. Agent Goldfinger, between 2003 and 2006, did you
4 have the opportunity to approve any Form 103 paid
5 vouchers for Mr. Damian Daniel?

6 A. No, sir.

7 MR. MOORE: Thank you.

8 THE WITNESS: Thank you very much.

9 THE COURT: Redirect?

10 MR. LINDQUIST: No, thank you.

11 THE COURT: Agent Goldfinger, thank you for
12 your testimony.

13 You may step down.

14 THE WITNESS: Thank you, Your Honor.

15 THE COURT: Next witness.

16 MR. LINDQUIST: Kevin Adams.

17 THE COURT: Actually, before that witness comes
18 in -- you can just step out for one minute.

19 Let me see counsel briefly.

20 (Sidebar discussion held as follows)

21 THE COURT: I thought this seems like a good
22 break in the testimony where I could make those
23 instructions on the photos, the BVI, and it seems there
24 was something about Puerto Rico, Puerto Rico testimony;
25 that is, instructing them that the reference that was

1 made to events occurring in Puerto Rico by -- which
2 witness was that?

3 MR. HODGE: Oh, man --

4 MR. LINDQUIST: Mr. Springette.

5 THE COURT: Was it Springette? No, it was
6 after Springette. It was Turnbull.

7 (Simultaneous discussion)

8 THE COURT: I'm sorry, I'm breaking my own
9 rules.

10 Turnbull.

11 All right. That the photos, I think, the
12 government has agreed that they were 5R through -W, were
13 for the purposes of locational reference, not the scene
14 at the time of the incident.

15 And then finally, the reference to the events in
16 the BVI to which Mr. --

17 MR. MOORE: Damian Daniel.

18 THE COURT: -- Damian Daniel testified, that
19 they should disregard that.

20 Does counsel have an objection to me doing it at
21 this point before the witness takes the stand?

22 MR. HODGE: I just wanted to clarify --

23 THE COURT: Let me get an answer from the
24 government.

25 MR. LINDQUIST: No.

1 THE COURT: No? Attorney Moore?

2 MR. MOORE: No, Your Honor.

3 MR. HODGE: Does that include the North
4 Carolina dogfighting?

5 THE COURT: No, it just includes the BVI.

6 MR. HODGE: The BVI. No objection, Your Honor.

7 THE COURT: Okay. Good. Thank you.

8 (End sidebar discussion, open court as follows)

9 THE COURT: All right. Ladies and gentlemen,
10 just a few things I wanted to clarify, and this is
11 related to some of the items that may have been brought
12 in as evidence or testimony that you may have heard.

13 You may recall there was reference to some
14 photographs that were numbered 5R through 5W. And they
15 were of a -- photographs of a scene or an area in the
16 Smith Bay area of St. Thomas.

17 Those photographs were introduced for the purpose
18 of showing you location. Those photographs, 5R through
19 5W, were not introduced for the purpose of showing you
20 the scene as it appeared at the time of the incident,
21 just to show you and give you a locational perspective
22 of where things occurred.

23 This is what we call a limiting instruction. So
24 it's for a limited purpose, to show you location.

25 The other item that needs some discussion, just a

1 very brief instruction, is you may recall there was some
2 discussion or some testimony received while Mr. Damian
3 Daniel was testifying, and he referred to events taking
4 place in the British Virgin Islands, specifically
5 reference to a dogfight in the British Virgin Islands.

6 That reference to the dogfight occurring in the
7 British Virgin Islands, you are instructed to disregard
8 that. That is not to be part of your consideration.

9 And then finally, there was some testimony that was
10 elicited during the cross-examination of Mr. Turnbull,
11 Mr. Elton Turnbull, and Mr. Turnbull began to testify
12 about events that occurred in Puerto Rico.

13 Those events to which Mr. Elton Turnbull testified
14 concerning events in Puerto Rico, those should be
15 disregarded by you, as well.

16 Counsel, does that cover the matters that we
17 discussed?

18 MR. LINDQUIST: Yes --

19 THE COURT: From the government?

20 MR. LINDQUIST: I think it does.

21 THE COURT: Attorney Moore?

22 MR. MOORE: Yes, Your Honor.

23 THE COURT: Attorney Hodge?

24 MR. HODGE: Yes, Your Honor.

25 THE COURT: All right. You can bring in the

1 next witness.

2 (Pause)

3 THE CLERK: Please raise your right hand to
4 take the oath. At the end respond, "I do."

5 (Witness sworn)

6 THE WITNESS: I do.

7 THE CLERK: Please be seated.

8 THEREUPON, KEVIN ADAMS, having been duly sworn, was
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. LINDQUIST:

12 Q. Good afternoon, sir.

13 A. Afternoon.

14 Q. Tell us your name.

15 A. Name is Kevin Adams.

16 Q. What do you do for a living?

17 A. I'm a supervisory special agent employed by the
18 Drug Enforcement Administration.

19 Q. How long have you been with DEA?

20 A. Approximately 13 years.

21 Q. Where are you presently stationed?

22 A. I'm currently assigned to the New Orleans Field
23 Division Office.

24 Q. And before that, where were you?

25 A. I --

1 THE COURT: Agent Adams, if you can bring the
2 microphone up towards your mouth, so -- yes -- so we can
3 hear you clearly.

4 Go ahead.

5 THE WITNESS: I'm currently assigned to the New
6 Orleans Field Division Office.

7 BY MR. LINDQUIST:

8 Q. And before that, where were you?

9 A. Prior to that, I was assigned to the Dallas Field
10 Division Office. And prior to that I was in the St.
11 Thomas Resident Office.

12 Q. I would like you to think back to November of 2004.
13 Where were you stationed at that time?

14 A. The St. Thomas Resident Office.

15 Q. And did you have occasion to participate in an
16 investigation at that particular time?

17 A. Yes, I did.

18 Q. What generally speaking was your role in that
19 investigation?

20 A. I was one of the initial case agents that organized
21 the investigation and coordinated surveillances,
22 investigative plans of action.

23 Q. Did you have a co-case agent?

24 A. Yes. That was Michael Goldfinger.

25 Q. And specifically on November 30th of 2004, were you

1 involved in an activity associated with that
2 investigation?

3 A. Yes.

4 Q. What was that?

5 A. We were going to conduct a control purchase of
6 narcotics using a confidential source by the name of
7 Theodore Phillips.

8 Q. What happened in that regard?

9 A. What we did was prior to that day we made our
10 operational plan utilizing the confidential source,
11 Mr. Phillips. And part of that is having him report to
12 a mutual location, searching him, giving him operational
13 funds, giving him the target location, coordinate
14 surveillance.

15 Q. Let's back up. You're using some terms that maybe
16 you're really familiar with --

17 A. Sorry.

18 Q. -- but we might not be. "Operational funds," what
19 do you mean?

20 A. It's government funds that are supplied -- money,
21 U.S. currency that are supplied to someone who is
22 cooperating with the government to purchase narcotics,
23 to further criminal investigation.

24 Q. All right. So what happened on November 30th in
25 that regard with Mr. Phillips?

1 What did you do?

2 A. We supplied him with, with funds to purchase
3 narcotics. We took him to the target location. We set
4 up a surveillance and we observed him proceed to the
5 area to make the narcotics purchases.

6 Q. What happened after that, as far as your
7 involvement was concerned?

8 A. As far as my involvement, we met with Mr. Phillips
9 after the narcotics purchase was conducted. I took
10 possession of the narcotics, searched Mr. Phillips to
11 make sure there wasn't any contraband left on him, and I
12 secured the evidence, the drug evidence in a heat-sealed
13 evidence envelope.

14 Q. When you say you secured it in a heat-sealed drug
15 envelope, what do you mean?

16 What did you do?

17 Just describe what you did.

18 A. With gloves on, I take the drug evidence from him,
19 field test it for the presence of cocaine. Then I would
20 put it in an evidence envelope. I would sign the
21 evidence envelope with a witness, and I would seal it
22 and prepare it to be sent off to our laboratory.

23 Q. Okay.

24 MR. LINDQUIST: Could we have the witness shown
25 Exhibit 35A for identification.

1 (Government's Exhibit No. 35A marked)

2 BY MR. LINDQUIST:

3 Q. Do you see that 35A there in front of you?

4 A. Yes.

5 Q. What is that that you're looking at?

6 A. It was the narcotics evidence that was --

7 Q. First of all, what -- the exhibit consists of what?

8 A photograph?

9 A. Yes. It's a photograph of 16 plastic baggies.

10 Q. And do you recognize that photograph?

11 A. Yes.

12 Q. How is it that you recognize that photograph?

13 A. It's the, a photograph of the drug evidence that
14 was acquired by Theodore Phillips that I took possession
15 of.

16 Q. And does that photograph fairly and accurately
17 portray what you received from Mr. Phillips that day?

18 A. Yes.

19 MR. LINDQUIST: I offer Exhibit 35A into
20 evidence.

21 MR. HODGE: Same objection, Your Honor.

22 MR. MOORE: I join counsel.

23 THE COURT: All right. 35A is admitted.

24 (Government's Exhibit No. 35A admitted)

25 BY MR. LINDQUIST:

1 Q. Now, Mr. Adams, looking at the screen we see
2 Exhibit 35A. Now tell us what we're looking at, as far
3 as its content.

4 A. Looking at 16 small plastic baggies, holding
5 cocaine.

6 Q. And --

7 MR. HODGE: Objection, Your Honor.

8 THE COURT: All right. Agent Adams, the items
9 depicted, it's what you suspect to be cocaine; is that
10 correct?

11 THE WITNESS: Yes.

12 THE COURT: All right. If you can use that
13 reference.

14 THE WITNESS: Yes, sir.

15 THE COURT: All right. Go ahead.

16 BY MR. LINDQUIST:

17 Q. Now, do you see those individual baggies?

18 A. Yes, I do.

19 Q. Can you give us an idea from your personal
20 involvement with them on that occasion how much they
21 weigh?

22 Any idea?

23 MR. HODGE: Objection. Foundation.

24 THE COURT: Overruled.

25 THE WITNESS: No, I wouldn't want to guess on

1 the weight. I would have to look at the lab results.

2 BY MR. LINDQUIST:

3 Q. All right. Fair enough.

4 MR. LINDQUIST: Let's leave it -- we'll just
5 leave it there.

6 Now if we could put the lights back up, please.

7

8 BY MR. LINDQUIST:

9 Q. Now you indicated that you took possession of these
10 suspected narcotics; is that correct?

11 A. Yes.

12 MR. LINDQUIST: I'm thinking that you have
13 there in front of you, there's a stack of packages.
14 Take a look and see if you can find the one with sticker
15 35B on it.

16 (Government's Exhibit No. 35B marked)

17 BY MR. LINDQUIST:

18 Q. Do you have that?

19 A. I do.

20 Q. Do you recognize that?

21 A. Yes, 35B.

22 Q. All right. What -- do you recognize what 35B
23 consists of?

24 A. It's the heat-sealed evidence envelope that was
25 utilized on November 30th. This is what I put the

1 suspected drug evidence into.

2 Q. And when you, when you sealed that up, was it
3 intact, its integrity in place?

4 A. Yes, it was.

5 Q. And once you sealed that up, what did you do with
6 it?

7 A. I secured it in the St. Thomas Resident Office. We
8 have a temporary drug storage facility, and it was
9 stored there until it was sent off to the, our south
10 central laboratory.

11 Q. And when it went into that storage, when you put it
12 in there, was the package intact?

13 A. It was intact.

14 Q. Did you have occasion to deal with this particular
15 package after that, as far as the lab was concerned?

16 A. Yes, sir.

17 Q. What did you do?

18 A. On December the 2nd, I then personally mailed it
19 off after taking it out of the temporary drug storage
20 facility.

21 Q. When you took it out of the temporary drug storage
22 facility, how was the package as far as its integrity,
23 its seal, was concerned?

24 A. It was intact.

25 Q. And how did you send it to the lab?

1 A. Intact, by certified mail.

2 Q. All right. So when it left your hands going to the
3 lab, the packaging was intact; is that correct?

4 A. Yes, sir.

5 Q. All right. Go ahead and set that down, if you
6 will.

7 Did you have involvement as far as the
8 investigation was concerned otherwise, in sending other
9 packages to the lab?

10 A. Yes.

11 MR. LINDQUIST: If you would look up there, see
12 if you can find 36B.

13 (Government's Exhibit No. 36B marked)

14 THE WITNESS: 36B is not up here.

15 MR. LINDQUIST: That is because I have it right
16 here.

17 May I approach him, Your Honor?

18 THE COURT: Yes.

19 THE WITNESS: Thank you.

20 BY MR. LINDQUIST:

21 Q. Do you recognize 36B?

22 A. Yes.

23 Q. How do you recognize it?

24 A. 36B is a heat-sealed envelope that I utilized on
25 December 7th of 2004. I used this to also secure

1 suspected narcotics evidence that was acquired on that
2 day from Theodore Phillips.

3 Q. Was that done with Agent Goldfinger?

4 A. Yes, it was.

5 Q. And did you have -- what did you do with that once
6 you sealed it?

7 A. Once I sealed it, again, as a process I submit it
8 to the temporary storage facility until I then retrieve
9 it to be sent off to the laboratory.

10 Q. Did you retrieve it to send it off to the lab?

11 A. On the next day, December 8th, yes.

12 Q. When you retrieved it to send it off to the lab,
13 describe the integrity of the packaging.

14 A. It was intact, the same way I had sealed it the day
15 prior.

16 Q. And how did you send it to the lab?

17 A. Certified mail.

18 Q. Fine.

19 MR. LINDQUIST: Go ahead and set that down and
20 take a look at 37B.

21 (Government's Exhibit No. 37B marked)

22 BY MR. LINDQUIST:

23 Q. And you should have that one up there, I believe.

24 A. I do.

25 Q. Do you recognize that?

1 A. Yes.

2 Q. And what -- how is it that you're able to recognize
3 that?

4 A. By my signature. It's a heat-sealed evidence
5 envelope that I utilized to secure suspected narcotics
6 that was acquired on December 21st 2004.

7 Q. All right. And what did you do once you sealed the
8 suspected narcotics in that bag?

9 A. Once I sealed the suspected narcotics, I stored it
10 in our temporary drug facility at the St. Thomas
11 Resident Office.

12 Q. After that, did you have any involvement as far as
13 it going off to the lab?

14 A. I sent it out to the lab on December 22nd, 2004.

15 Q. Tell us what the packaging was like when you sent
16 it out to the lab.

17 A. It was intact. And I sent it certified mail; was
18 normal procedure.

19 Q. Very good.

20 MR. LINDQUIST: Now, if you would, sir, take a
21 look at --

22 BY MR. LINDQUIST:

23 Q. Do you see 39A-2 and 39B-2 up there?

24 A. Yes. I have both.

25 (Government's Exhibit No. 39B-2 marked)

1 BY MR. LINDQUIST:

2 Q. Do you recognize those?

3 A. Yes. These are heat-sealed envelopes that were
4 utilized on January 18th, 2005.

5 Q. Did you have some involvement in those going to the
6 lab?

7 A. Yes.

8 Q. What was your involvement?

9 A. My involvement was placing suspected drug evidence
10 into these heat-sealed envelopes on the 18th, sealing
11 those envelopes, stored them temporarily in our St.
12 Thomas temporary drug storage facility, and then on the
13 19th sending those exhibits out to our laboratory.

14 And they were intact from the time I sealed them on
15 the 18th to the time I sent them out on the 19th.

16 MR. LINDQUIST: Sir, thank you very much.

17 Your Honor, those are the questions that I have.

18 THE COURT: All right.

19 Attorney Hodge?

20 MR. HODGE: Court's indulgence?

21 THE COURT: Yes.

22 (Pause)

23 MR. HODGE: No questions, Your Honor.

24 THE COURT: All right. Attorney Moore?

25 MR. MOORE: Thank you.

1 CROSS-EXAMINATION

2 BY MR. MOORE:

3 Q. Good afternoon, Agent Adams.

4 A. Good afternoon.

5 Q. In your capacity as a, in the resident office of
6 DEA here in St. Thomas, did you ever have occasion to
7 sign any 103 vouchers for Mr. Damian Daniels?

8 A. No.

9 Q. How about a Tamika Monsanto?

10 A. No.

11 MR. MOORE: Thank you.

12 THE COURT: Redirect?

13 MR. LINDQUIST: No, thank you.

14 THE COURT: Agent Adams, thank you for your
15 testimony.

16 You may step down.

17 THE WITNESS: Thank you, sir.

18 THE COURT: Next witness.

19 MR. LINDQUIST: Darnell Blake.

20 (Pause)

21 THE CLERK: At the end respond, "I do."

22 (Witness sworn)

23 THE WITNESS: I do.

24 THE CLERK: Please be seated.

25 THEREUPON, DARNELL BLAKE, having been duly sworn,

1 was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. LINDQUIST:

4 Q. I'm sorry. Good afternoon.

5 A. Good afternoon.

6 Q. Tell us your name.

7 A. Darnell Blake.

8 Q. What do you do for a living, sir?

9 A. I'm a special agent with the Drug Enforcement
10 Administration.

11 Q. How long have you done that?

12 A. A little over 11 years.

13 Q. And did you have occasion to be assigned here to
14 the St. Thomas office at some point in time?

15 A. Yes, from --

16 Q. Go ahead.

17 A. Yes, from 2003 to 2006.

18 Q. And specifically referring you to January 24 of
19 2005, were you involved in a particular investigation
20 that encompassed that day?

21 A. Yes.

22 Q. Tell us what your involvement was in that
23 investigation?

24 A. I was part of a surveillance unit that was covering
25 a drug buy in the Savan area of St. Thomas.

1 Q. Did that involve a confidential informant?

2 MR. HODGE: Objection. Leading.

3 THE COURT: Sustained.

4 BY MR. LINDQUIST:

5 Q. Describe what, what, if any, involvement you had
6 with an informant on that occasion?

7 MR. HODGE: Objection. Leading.

8 THE COURT: Overruled.

9 THE WITNESS: I received some drugs from the
10 informant after he made the buy in the Savan area.

11 BY MR. LINDQUIST:

12 Q. And what did you do with those drugs once you
13 received them from him?

14 A. I field tested it and sealed it up in a DEA drug
15 envelope.

16 Q. Okay. What did you do after that?

17 A. After I sealed it up, I initialed it and sent it
18 off to the lab, for analysis.

19 Q. Did you do that on the same occasion?

20 A. Yes. I mailed it out on the same day.

21 Q. So when you sent it off to the lab describe for us
22 the packaging as far as its seal and the integrity of
23 that seal was concerned?

24 A. Well, I sealed the package and I initialed it,
25 where the seal was.

1 Q. Take a look up there. There's a number of plastic
2 packages that have some exhibit stickers on them. Look
3 for number 40 -- 40B.

4 A. I have it.

5 Q. Do you recognize that?

6 A. Yes.

7 Q. How is it that you're able to recognize that?

8 A. My name is on it and the seal at the top with my
9 initials.

10 Q. How did you send that off to the lab?

11 A. I mailed it out.

12 Q. When you mailed it out, describe for us the
13 packaging as far as the integrity of the seal was
14 concerned.

15 A. Well, when I mailed it out the top here was sealed.
16 This bottom was not sealed, like in this fashion.

17 Q. I'm sorry?

18 A. This bottom wasn't sealed in this fashion.

19 Q. Okay. So, something took place after you sent it
20 to the lab; is that correct?

21 A. Yes.

22 Q. But when you sent it out to the lab, was it
23 completely sealed and intact?

24 A. Yes, it was.

25 MR. LINDQUIST: Thank you. Those are the

1 questions that I have.

2 THE COURT: All right. Attorney Hodge?

3 MR. HODGE: Court's indulgence?

4 THE COURT: Yes.

5 (Counsel conferring)

6 MR. HODGE: No questions, Your Honor.

7 THE COURT: All right. Attorney Moore?

8 MR. MOORE: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. MOORE:

11 Q. Good afternoon, Agent Blake.

12 A. Good afternoon.

13 Q. Sir, have you ever signed and approved any DEA
14 payment vouchers 103's, I guess they're called, for
15 Mr. Damian Daniel?

16 A. Yes, I believe I have.

17 Q. How many?

18 A. I don't recall.

19 Q. Thank you.

20 Have you approved any vouchers for a Tamika
21 Monsanto?

22 A. No.

23 MR. MOORE: Thank you.

24 THE COURT: Redirect?

25 MR. LINDQUIST: No, thank you.

1 THE COURT: All right. Agent Blake, thank you
2 for your testimony.

3 You may step down.

4 THE WITNESS: Thank you.

5 THE COURT: Next witness.

6 MR. LINDQUIST: Mark Thomas.

7 (Pause)

8 THE CLERK: Please raise your right hand. At
9 the end respond, "I do."

10 (Witness sworn)

11 THE WITNESS: I do.

12 THE CLERK: Please be seated.

13 THEREUPON, MARK L. THOMAS, SR., having been duly
14 sworn, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. LINDQUIST:

17 Q. Good afternoon, sir.

18 A. Good afternoon.

19 Q. Tell us your name, would you, please?

20 A. Mark Leslie Thomas, senior.

21 Q. Where do you work?

22 A. I work for the Virgin Islands Police Department.

23 Q. How long have you worked there?

24 A. Fourteen years.

25 Q. Give us an idea of what you've done during the

1 course of your career with VIPD, the various
2 assignments?

3 A. I've worked with the High Intensity Drug
4 Trafficking Task Force for about 13 years.

5 Q. Back in, let's see, 2005, what was -- what were the
6 nature of your -- what was the nature of your
7 responsibilities then?

8 A. Back in 2005, I was working drug investigation on a
9 particular case.

10 Q. And is that case what brings you to court today?

11 A. Yes.

12 Q. I'm referring you specifically to February 15 of
13 2005. Were you involved in that particular
14 investigation?

15 A. Yes, I was.

16 Q. And what was your involvement on that day in that
17 investigation?

18 A. On that date in question, I received some drug
19 evidence from Agent Goldfinger --

20 Q. Okay.

21 A. -- after an undercover buy.

22 Q. What did you do with that drug evidence once you
23 got it from him?

24 A. I -- it was processed, which it was photographed,
25 sealed, and my signature was put on the package. And

1 then it was relinquished to the drug evidence custodian,
2 which was Mike Aguilar.

3 Q. Who gave it to Mike Aguilar?

4 A. I did.

5 Q. When you gave it to him, describe for us the
6 integrity of the seal on the packaging?

7 A. It was sealed. It was stamped, heat-sealed and my
8 initials and the date were on it.

9 Q. Did you have occasion after that to have, to do
10 something with that same package?

11 A. Yes. The next day it was relinquished back to me
12 by Michael Aguilar, and it was mailed out.

13 Q. When you got it back from Aguilar, describe for us
14 the integrity of the sealed package.

15 A. It was in the same condition I gave it to Mike
16 Aguilar.

17 Q. And then what did you do with it?

18 A. I mailed it to the Southeast Regional Laboratory.

19 Q. And tell us what the condition of the bag was when
20 you mailed it to the laboratory?

21 A. It was in the same condition.

22 Q. All right. Take a look up there in front of you.
23 There's some bags up there, some packages, with some
24 yellow stickers on them. Look for 41B.

25 Do you have that?

1 A. Yes, I do.

2 Q. Looking at 41B, do you recognize it?

3 A. Yes.

4 Q. How do you recognize it?

5 A. It has my signature on the top, my initials MLT,
6 and it has also my, witnessed by M. Thomas.

7 Q. And is that the package that you referred to
8 earlier in your testimony?

9 A. Yes. It's in my handwriting.

10 Q. Okay. And it's the same thing you testified to
11 earlier; is that correct?

12 A. That's correct.

13 MR. LINDQUIST: All right. Thank you.

14 Those are the questions that I have.

15 THE WITNESS: Thank you.

16 THE COURT: Attorney Hodge?

17 MR. HODGE: No questions, Your Honor.

18 THE COURT: Attorney Moore?

19 MR. MOORE: None, Your Honor.

20 THE COURT: All right.

21 Agent Thomas, thank you for your testimony. You
22 may step down.

23 THE WITNESS: Thank you.

24 May I be excused?

25 THE COURT: Any need for Agent Thomas?

1 MR. HODGE: No, Your Honor.

2 MR. MOORE: No, sir.

3 THE COURT: All right. You're excused. Thank
4 you very much.

5 THE WITNESS: Thank you.

6 (Witness excused)

7 THE COURT: Next witness.

8 MR. LINDQUIST: Michael Aguilar.

9 (Pause)

10 THE CLERK: Please raise your right hand to
11 take the oath. At the end respond, "I do."

12 (Witness sworn)

13 THE WITNESS: I do.

14 THE CLERK: Please be seated.

15 THE WITNESS: Thank you.

16 THEREUPON, MICHAEL AGUILAR, having been duly sworn,
17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. LINDQUIST:

20 Q. Good afternoon, sir.

21 A. Good afternoon.

22 Q. Tell us your name.

23 A. Michael Aguilar.

24 Q. What do you do for a living?

25 A. Special Agent with the Drug Enforcement

1 Administration.

2 Q. How long have you done that?

3 A. Approximately 12 years.

4 Q. And you're currently assigned where, what region?

5 A. The Caribbean Division.

6 Q. Did you serve at any point in time here on

7 St. Thomas?

8 A. Yes.

9 Q. Over what period of time?

10 A. Approximately 2003 to 2006.

11 Q. Until 2000 when?

12 A. Until 2006.

13 Q. I'm sorry. Thank you.

14 Referring back to 2004, 2005, were you involved in
15 a particular investigation that brings you here today?

16 A. Yes.

17 Q. What was your general responsibilities as far as
18 that investigation was concerned?

19 A. I was involved in different aspects of the
20 investigation, including surveillance, arrest warrants,
21 search warrants, and as drug evidence custodian.

22 Q. Let's talk first about an event on December 28th of
23 2004. Are you with me?

24 Do you know what I'm referring to?

25 A. Yes, sir.

1 Q. What happened on that particular day, as far as you
2 personally were concerned?

3 A. I received a drug exhibit from Special Agent
4 Michael Goldfinger. I submitted that to the drug
5 evidence vault for safekeeping, and subsequently mailed
6 that to the DEA laboratory for analysis.

7 Q. Take a look, there are some packages up there.
8 They all have some yellow stickers. Look for 38B.

9 Do you have that?

10 A. Yes, sir.

11 Q. Do you recognize that?

12 A. Yes, sir.

13 Q. How do you -- how are you able to recognize that,
14 Agent Aguilar?

15 A. I've got my name as well as my initials labeled on
16 the back.

17 Q. Does this contain what Agent Goldfinger gave to you
18 that day?

19 A. Yes.

20 Q. When you received it from him, describe for us the
21 nature of the packaging, as far as its sealed integrity.

22 A. It's sealed along the top here with this top seal,
23 with the initials of the agent's, as well as the date
24 and some other data.

25 Q. Was the bag completely sealed?

1 A. Yes.

2 Q. And what did you do with it?

3 A. Submitted it to the drug evidence vault for
4 safekeeping temporarily.

5 Q. And afterwards, did you have something else to do
6 with it?

7 A. Yes. The next day I mailed it to the DEA
8 Laboratory for analysis.

9 Q. When you got it out of the temporary storage, the
10 nature of the seal?

11 A. It was still intact, in the same condition.

12 Q. And when you shipped it off or mailed it off to the
13 lab, tell us what the condition of the seal was?

14 A. The seal was still intact, in the same condition.

15 Q. Now, if -- very good. Go ahead and set that down,
16 if you would.

17 A. (Complies)

18 Q. Now, you've mentioned that your general
19 responsibilities included evidence custodian; is that
20 correct?

21 A. Correct.

22 Q. Just in a word or two, explain what those
23 responsibilities were.

24 A. Just provide secure, short-term storage for drug
25 evidence before it's mailed to the laboratory for

1 analysis.

2 Q. And why is it important to maintain the integrity
3 of these items before they go to the lab?

4 A. Just to preserve the evidence as they were seized
5 throughout the chain of custody.

6 Q. All right. Did you have any other role as far as
7 this particular investigation was concerned?

8 A. I participated in arrest warrants, search warrants,
9 seizure warrants, and other enforcement activity
10 involved in the investigation.

11 Q. You mentioned search warrants; is that correct?

12 A. Yes, sir.

13 Q. Did you have any involvement with the search of the
14 property known as the farm?

15 A. Yes.

16 Q. When did that occur in relation to what you've just
17 described as far as your involvement in the
18 investigation?

19 A. October 5th, 2005.

20 Q. All right. And what was your involvement as far as
21 the execution of that search warrant was concerned?

22 A. I was on the search team that was involved in the
23 property. So we searched the property, secured it, and
24 I also took photographs that day of the property.

25 Q. And where was that property located?

1 A. I believe it was Number 41 Estate, I think Caret,
2 Caret Bay, on the north side of St. Thomas. And we just
3 referred to it as the farm.

4 Q. And based upon your personal involvement in that
5 investigation, that farm corresponded to what subject of
6 the investigation?

7 A. Mr. Mark.

8 Q. And do you, do you know Mr. Mark?
9 Do you recognize him?

10 A. Yes.

11 Q. Is he in the courtroom today?

12 A. Yes.

13 Q. Would you point him out and describe what he's
14 wearing, please?

15 A. The gentleman, gentleman right here with the
16 glasses and, I guess yellow or cream-colored shirt.

17 MR. LINDQUIST: Your Honor, may the record
18 reflect that he has identified Defendant Mark?

19 THE COURT: Yes. The record will reflect the
20 witness has identified Defendant Mark.

21 BY MR. LINDQUIST:

22 Q. Just tell us, generally speaking, what took place
23 as far as the search warrant that was exercised or that
24 was, yeah, exercised at the farm?

25 A. The search was conducted of the property. There

1 was several outbuildings, as well as some individuals
2 that were at the property. So we made contact with them
3 and searched the property looking for contraband and
4 other items.

5 Q. And describe, if you will, a little more what the
6 structures on the property consisted of?

7 A. There was the main driveway. To the right of the
8 driveway there was a brick or concrete building,
9 residential-type structure.

10 To the middle of the driveway I think there was two
11 vehicles. And to the left of the driveway was another
12 residence or concrete structure.

13 And then kind of towards the back left was a large,
14 I believe wooden structure for housing chickens or
15 fighting cocks.

16 Q. What, if anything, did you find with regard to
17 dogs?

18 A. There were several --

19 MR. HODGE: Objection. Leading.

20 THE WITNESS: -- dogs --

21 MR. HODGE: Objection. Leading.

22 THE COURT: Sustained.

23 BY MR. LINDQUIST:

24 Q. Describe what else you found, as far as animals
25 were concerned.

1 A. Outside of --

2 MR. HODGE: Objection. Leading.

3 THE COURT: Sustained. Rephrase.

4 BY MR. LINDQUIST:

5 Q. Describe what else you found.

6 A. There was, on the exterior of the wooden structure,
7 approximately half a dozen dogs, staked at various
8 locations, and some other doghouses, as well as outdoor,
9 you know, equipment and barrels and other things of that
10 nature.

11 MR. LINDQUIST: Could the witness be shown
12 Government's Exhibit 166A for identification, please.

13 (Government's Exhibit No. 166A marked)

14 BY MR. LINDQUIST:

15 Q. Do you see that 166A?

16 A. Yes.

17 Q. What is that, as far as the thing we're looking at,
18 the item?

19 A. This is the aerial photograph of the residence
20 which I described, showing the driveway, the two
21 residential structures, and the outbuilding that
22 contained the chickens.

23 Q. Does the photograph fairly and accurately portray
24 what you saw that day when you executed the search
25 warrant in October of 2005?

1 A. Yes.

2 MR. LINDQUIST: I offer 166A into evidence,
3 please.

4 MR. HODGE: Objection. Foundation, Your Honor.

5 THE COURT: Attorney Moore?

6 MR. MOORE: I join counsel's objection,
7 Your Honor.

8 THE COURT: All right. Exhibit 166A is
9 admitted.

10 (Government's Exhibit No. 166A marked)

11 BY MR. LINDQUIST:

12 Q. Now, Agent Aguilar, there should be up there in
13 front of you a mouse that's a laser, laser pointer. I
14 think it activates on top. If you can -- do you have
15 it?

16 A. Yes, sir.

17 Q. Just point out the various features that you
18 mentioned before.

19 A. As I mentioned, the driveway comes in here to the
20 property. These are the -- this is the first
21 residential structure here, and this is the larger
22 residential structure here.

23 And then this structure here is the, kind of wooden
24 outbuilding that had the chickens and the livestock.
25 And then the dogs were staked, kind of, I believe in

1 this area right here.

2 Q. All right. Very good. Thank you.

3 MR. LINDQUIST: Let's go ahead and have the
4 lights back up please.

5 Could the witness be shown 166B?

6

7 BY MR. LINDQUIST:

8 Q. Do you see 166B?

9 A. Yes, sir.

10 Q. Do you recognize that?

11 A. Yes, sir.

12 Q. How is it that you're able to recognize that?

13 A. This is a photograph I took, looking, I believe it
14 was through that wooden structure out, looking outside
15 to the exterior towards the rear, towards the dogs.

16 Q. And does this photograph fairly and accurately
17 portray what you saw that day, what you were looking at
18 when you took that photograph?

19 A. Yes.

20 Q. All right. Let's go to 166C.

21 Do you recognize 166C?

22 A. Yes.

23 Q. What's that?

24 A. This is an exterior photo looking in towards that
25 wooden structure. This is showing the outside, showing

1 some of the doghouses on the exterior to that
2 outbuilding.

3 Q. Does 166C fairly and accurately portray what you
4 found that day?

5 A. Yes.

6 MR. LINDQUIST: 166D, please.

7

8 Q. Do you recognize 166D?

9 A. Yes.

10 Q. What's that?

11 A. Just a photograph of one of the dogs that was on
12 the exterior of the property, of that outbuilding.

13 Q. Does 166D fairly and accurately portray what you
14 saw and photographed that day?

15 A. Yes.

16 MR. LINDQUIST: 166E.

17

18 Q. What's that?

19 A. Once again, just an exterior view of that
20 outbuilding, showing one of the doghouses and one of the
21 dogs.

22 Q. Does it fairly and accurately portray what you saw
23 and photographed that day?

24 A. Yes.

25 MR. LINDQUIST: 166F.

1 BY MR. LINDQUIST:

2 Q. What's that?

3 A. Another picture of a dog, standing on top of a
4 doghouse on the exterior of the building.

5 Q. Does it fairly and accurately portray what you saw
6 on that particular day, as far as its content?

7 A. Yes.

8 MR. LINDQUIST: 166G.

9 Q. What are we seeing there?

10 A. Once again, a picture taken from inside the
11 outbuilding, looking outwards at one of the dogs and the
12 doghouses on the exterior of the outbuilding.

13 Q. Does 166G fairly and accurately portray what you
14 saw that day as reflected in this photograph?

15 A. Yes.

16 MR. LINDQUIST: 166H, please.

17

18 BY MR. LINDQUIST:

19 Q. What are we seeing there in 166H?

20 A. Once again, from inside the outbuilding, looking
21 outwards towards the exterior at one of the dogs on the
22 outside of the building.

23 Q. Does it fairly and accurately portray what you saw
24 that day?

25 A. Yes.

1 MR. LINDQUIST: 166I.

2 BY MR. LINDQUIST:

3 Q. What's that?

4 A. Once again, a photo of a dog on the outside of the
5 outbuilding, next to a doghouse.

6 Q. Does it fairly and accurately portray what you saw
7 that day?

8 A. Yes.

9 MR. LINDQUIST: 166J.

10 Q. What's that?

11 A. This is a pen on the inside of that outbuilding, as
12 you walked in that outbuilding on the left-hand side.

13 Q. And does this photograph fairly and accurately
14 portray what you saw that day?

15 A. Yes.

16 MR. LINDQUIST: 166K.

17 Q. What are we seeing here?

18 A. This was the interior portion of one of the out
19 buildings that showed just the, the chickens and where
20 they were housed.

21 Q. Does it fairly and accurately portray what you saw
22 that day?

23 A. Yes.

24 MR. LINDQUIST: 166L.

25 BY MR. LINDQUIST:

1 Q. What's that?

2 A. Once again, the interior shot, showing where the
3 chickens were being housed on the inside.

4 Q. Different direction, though, inside the building?

5 A. Yeah, I'm not -- correct -- or -- don't recall
6 exactly the orientation of that photo.

7 Q. Does it fairly and accurately portray what you saw
8 that day?

9 A. Yes.

10 MR. LINDQUIST: 166M, please.

11 BY MR. LINDQUIST:

12 Q. What are we seeing there?

13 A. Another similar photo of the interior of the
14 outbuilding, showing the chickens and the pens and how
15 they were housed.

16 Q. Does it fairly and accurately portray what you saw
17 that day?

18 A. Yes.

19 MR. LINDQUIST: 166N.

20 Q. Now what are we seeing?

21 A. Once again, just looking at the different pens that
22 are stacked up with the chickens, an outhouse.

23 Q. Does this photograph, 166N, fairly and accurately
24 represent what you saw that day?

25 A. Yes.

1 MR. LINDQUIST: 166-O.

2 BY MR. LINDQUIST:

3 Q. What are we seeing?

4 A. Similar photo of the outbuilding, showing the
5 inside, showing the different housing, pens stacked for
6 the chickens on top of each other.

7 Q. Does this photograph accurately portray what you
8 saw that day?

9 A. Yes.

10 MR. LINDQUIST: 166P.

11 Q. What's that?

12 A. Once again, an interior view of the outbuilding
13 showing the different pens for the chickens.

14 Q. Does it accurately portray what you saw that day?

15 A. Yes.

16 MR. LINDQUIST: And 166Q.

17 Q. What are we seeing?

18 A. Once again, the interior of the outbuilding, just
19 showing the pens for the chickens.

20 Q. Does it accurately portray what you saw that day?

21 A. Yes.

22 MR. LINDQUIST: Your Honor, I offer exhibits
23 166B through -Q into evidence.

24 THE COURT: Attorney Hodge?

25 MR. HODGE: Objection, Your Honor. Relevance

1 and 403.

2 THE COURT: All right. As to everything, or
3 some things?

4 MR. HODGE: 403 as to everything, and
5 relevance --

6 THE COURT: If it's not too much of a problem,
7 do you mind standing up when you're speaking?

8 MR. HODGE: 403 as to everything, and
9 relevance -- sorry, Your Honor -- and relevance as to J,
10 K, L, M, N, O, P -- I don't recall how far we went. Q?
11 And Q.

12 THE COURT: All right.

13 Attorney Moore?

14 MR. MOORE: Yes. Everything about chickens, K
15 through Q; and with regard to all of the dog pictures
16 after A, I believe, B through D; I just think it's
17 cumulative, and for 403 objection.

18 THE COURT: All right. Exhibits 165[sic]B, C
19 and J are admitted.

20
21 (Government's Exhibit Nos. 166B, 166C, 166J
22 admitted).

23

24 THE COURT: The others are under advisement.

25 MR. LINDQUIST: That's D, C and --

1 THE COURT: B like "baby," C like "Charley," J
2 like "Jack."

3 MR. LINDQUIST: May we publish 166B, C and J,
4 Your Honor?

5 THE COURT: Yes.

6 MR. MOORE: Your Honor, that's Q.

7 BY MR. LINDQUIST:

8 Q. Agent Aguilar, what are we seeing here?

9 A. This is a shot taken from the interior of that
10 outbuilding, looking out towards the outside, the
11 exterior of that outbuilding, with one of the dogs and
12 one of the doghouses.

13 MR. LINDQUIST: 166C, please.

14 BY MR. LINDQUIST:

15 Q. What are we seeing there?

16 A. This is just an exterior view of that outbuilding,
17 showing the doghouses on the exterior of that building,
18 and the dogs -- at least one of the dogs is towards the
19 left rear of the building.

20 MR. LINDQUIST: And 166J, please.

21 BY MR. LINDQUIST:

22 Q. And what are we seeing there?

23 A. This is a pen, right as you walk in that
24 outbuilding, as you entered the building to the
25 left-hand side was a pen.

1 Q. All right.

2 MR. LINDQUIST: Thank you. We can put the
3 lights back on.

4 Agent Aguilar, thank you.

5 Thank you, Your Honor.

6 THE COURT: Thank you.

7 Attorney Hodge.

8 MR. HODGE: Court's indulgence?

9 THE COURT: Yes.

10 (Pause)

11 CROSS-EXAMINATION

12 BY MR. HODGE:

13 Q. Good afternoon, Officer Aguilar.

14 A. Good afternoon, sir.

15 Q. Did I pronounce your name correctly?

16 A. Aguilar, correct.

17 Q. Tell me, when you searched the farm, was it the
18 purpose of your search to locate narcotics -- narcotics
19 or narcotics paraphernalia?

20 A. Yes.

21 Q. Did you find any?

22 A. No.

23 MR. HODGE: If I could have Government's
24 Exhibit 166A.

25 BY MR. HODGE:

1 Q. Tell me, how did you get to the farm?

2 A. We drove, we drove -- I don't recall the specific
3 route, but we drove our vehicles to the farm.

4 Q. Did you ever fly above the farm?

5 A. I don't recall if I specifically did. At one point
6 we did have aerial surveillance to get the photograph,
7 but I don't recall.

8 Q. Were you the one who took the aerial photograph?

9 A. I don't recall.

10 Q. Were you on board for the aerial photograph?

11 A. I recall during this time period I was doing aerial
12 surveillance but I don't remember at that specific point
13 if we were involved in another case or in this case.

14 Q. Okay.

15 MR. HODGE: A moment, Your Honor?

16 THE COURT: Yes.

17 (Pause)

18 MR. HODGE: No further questions. Thank you,
19 Mr. Aguilar.

20 THE COURT: Thank you, Attorney Hodge.

21 Attorney Moore?

22 MR. MOORE: Thank you, Your Honor.

23 FURTHER CROSS-EXAMINATION

24 BY MR. MOORE:

25 Q. Good afternoon, Agent Aguilar.

1 A. Good afternoon, sir.

2 Q. In your employment responsibilities at the DEA when
3 you were in the Virgin Islands, did you have the
4 authorization to approve payment vouchers and 103's --
5 payment of vouchers for people working for the DEA or
6 doing services and getting reimbursed?

7 A. Maybe.

8 Q. Well, let me ask you this: Did you ever have
9 occasion to approve a 103 or payment voucher for
10 Mr. Damian Daniel?

11 A. I don't recall.

12 Q. Okay.

13 How about for Ms. Tamika Monsanto?

14 A. I'm not familiar with that name.

15 Q. Okay. You are familiar with Damian Daniel?

16 A. I've heard that name before, yes.

17 Q. Okay.

18 MR. MOORE: No further questions, Your Honor.

19 THE COURT: Thank you, Attorney Moore.

20 Any redirect?

21 MR. LINDQUIST: No, thank you.

22 THE COURT: Agent Aguilar, thank you for your
23 testimony. You may step down.

24 THE WITNESS: Thank you.

25 THE COURT: Next witness.

1 MR. LINDQUIST: Theodore Phillips.

2 (Pause)

3 THE CLERK: Please raise your right hand to
4 take the oath. And at the end respond, "I do."

5 (Witness sworn)

6 THE WITNESS: I do.

7 THE CLERK: Please be seated.

8 THEREUPON, THEODORE PHILLIPS, having been duly
9 sworn, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. LINDQUIST:

12 Q. Good afternoon, sir.

13 A. Good afternoon.

14 Q. Tell us your name, would you, please?

15 A. My name is Theodore Phillips.

16 Q. And where are you from?

17 Where were you born and raised?

18 A. St. Thomas, Virgin Islands.

19 Q. And how old are you, sir?

20 A. Fifty-one.

21 Q. Can you just give us an idea of your education
22 background?

23 A. I went to Jarvis School, Tutu Elementary School,
24 and Eudora Kean High School.

25 Q. What have you done for a living?

1 A. I was a corrections officer.

2 Q. And where were you a correction officer?

3 A. St. Thomas, Virgin Islands.

4 Q. At some point in time, did your work as a
5 correction officer cease?

6 A. Yes, sir.

7 Q. And what, what occasioned, what caused that work to
8 end?

9 A. One day in 2004, I was over in Smith Bay, Coki
10 Point Beach, and agents came and searched a group of us
11 and found a little bit of marijuana on my person.

12 Q. Okay. And as a result of that, you quit work, or
13 you were not able to work as a corrections officer, is
14 that correct?

15 A. Yes, sir.

16 Q. As a result of that, did you begin to provide some
17 work for law enforcement?

18 A. Yes, sir.

19 Q. Generally speaking, what did you do for law
20 enforcement?

21 A. Make certain purchases in the Savan area.

22 Q. And can you tell us when that happened, what years?

23 A. The month of November 2004.

24 Q. Until when?

25 A. 2005, February.

1 Q. And do you remember how many, how many buys you did
2 for law enforcement?

3 A. About seven.

4 Q. Did you receive money to do this?

5 A. Yes, sir.

6 Q. And what was the money for?

7 A. The money was to make purchases, sir.

8 Q. Did you receive money for you personally, not just
9 to purchase drugs but for you personally?

10 A. During that time, no, sir; at no time.

11 Q. Tell us what you did in making these purchases
12 from, you say, November of 2004 until 2005. Just tell
13 us what you did.

14 A. Well, I was briefed and wire to go to, up in the
15 Savan area to certain individual and make purchases of
16 marijuana and crack cocaine.

17 MR. HODGE: Objection. Relevance.

18 THE COURT: Overruled.

19 BY MR. LINDQUIST:

20 Q. And just tell us, tell us what you did once you got
21 the money and you went into the Savan. Tell us what you
22 did.

23 A. When I got the money I went into the Savan area,
24 meet the individuals, make a purchase, and left the area
25 and returned to the agents and give, return -- turned

1 over the crack cocaine or marijuana to the agents. I
2 were debriefed.

3 Q. Between the time that you, you got the crack
4 cocaine in your hands and gave it to the agents, did you
5 do anything with it?

6 A. No, sir.

7 Q. How did you carry it between where you got it, from
8 the person you bought it from and when you gave it to
9 the agents?

10 A. Just put it in my pocket.

11 Q. And after you gave it to the agents, what happened?

12 A. They looked at it and count it out to make sure
13 whatever the amount I was told to buy was the exact
14 amount.

15 Q. Describe what it was that you were wearing, as far
16 as any mechanical device.

17 MR. HODGE: Objection. Leading.

18 THE COURT: Overruled.

19 THE WITNESS: Before I left the office of the
20 agents, I was placed with a wire on my person, and to go
21 up in the area. So while I was making these
22 transaction, the device was on me to -- all the
23 transactions was taking place, to record it.

24 BY MR. LINDQUIST:

25 Q. And once the transaction was over with, what was

1 done with the recording device that had been on your
2 body?

3 A. The recording device was then take off of my person
4 by the agent.

5 Q. During the course of these seven buys that you did,
6 did you buy what you believed was crack cocaine from a
7 particular individual?

8 A. I buy crack cocaine from an individual, yes, sir.

9 Q. And do you remember the name of that individual?

10 A. Allen Dinzey.

11 Q. Allen Dinzey?

12 A. And other member named Prince.

13 Q. Okay. How many times did you buy what you thought
14 was crack cocaine from Mr. Dinzey?

15 A. About five occasion.

16 Q. Now, in the course of purchasing that stuff from
17 Mr. Dinzey, did you obtain a telephone number?

18 A. Yes, sir.

19 Q. How did you get a telephone number?

20 A. Mr. Dinzey give it to me.

21 Q. All right. What did you do with that telephone
22 number after Mr. Dinzey gave it to you?

23 A. I gave the telephone number to the agents.

24 MR. HODGE: Objection. Hearsay.

25 THE COURT: Overruled.

1 BY MR. LINDQUIST:

2 Q. After you gave that telephone number to the agents,
3 did you make any telephone calls to Mr. Dinzey with that
4 number?

5 A. Yes, sir. While at the HIDTA office, we called
6 back Mr. Dinzey at that same number.

7 Q. Now, Mr. Phillips, with regard to the recording
8 device that you testified to --

9 MR. LINDQUIST: Your Honor, if I may, I need to
10 locate an exhibit.

11 THE COURT: Yes.

12 MR. LINDQUIST: May I approach the witness?

13 THE COURT: Yes.

14 MR. LINDQUIST: Mr. Phillips, I've handed you
15 what has been marked as Exhibit 35C-3.

16 (Government's Exhibit No. 35C-3 marked)

17 BY MR. LINDQUIST:

18 Q. Do you see that yellow sticker on there?

19 A. Yes, sir.

20 Q. Do you recognize that --

21 A. Yes, sir.

22 Q. -- that item?

23 A. Yes, sir.

24 Q. How are you able to recognize it?

25 A. This was one of the transactions that, in the past,

1 one of the transaction I make.

2 Q. Do you remember which one it was?

3 A. Not exactly which one, but it was one of them that
4 I make.

5 Q. Now, again, how do you recognize it?

6 Do you see something on there?

7 A. I see my initial, that through viewing the
8 transaction, my initial is on it.

9 Q. All right. When you initialed it, you initialed it
10 as a result of doing what with regard to that, that
11 disk?

12 A. Saying that, making sure that this is one of the
13 transactions that, that I, that the individual that I
14 met through making a transaction that it's on this CD or
15 video.

16 Q. So you looked at that CD or that video, is that
17 correct?

18 A. Yes, sir.

19 Q. Did that CD --

20 THE COURT: Attorney Lindquist, you're
21 referring to "that CD." Is there an exhibit number that
22 --

23 MR. LINDQUIST: There is. I apologize.

24 BY MR. LINDQUIST:

25 Q. That 35 -- that CD which is 35C-3, correct?

1 A. Yes, sir. Yes, sir.

2 Q. Does that CD, that 35-3--- 35C-3, does that fairly
3 and accurately contain a video of one of those purchases
4 that you made at that time?

5 A. Yes, sir.

6 MR. HODGE: Objection. Foundation.

7 THE COURT: Overruled.

8 BY MR. LINDQUIST:

9 Q. And that's based on what you physically, you
10 yourself, sir, is that right?

11 A. Yes, sir.

12 MR. LINDQUIST: Your Honor, I offer
13 Exhibit 35C-3 into evidence.

14 MR. HODGE: Objection, Your Honor.

15 MR. MOORE: I join counsel's objection, Your
16 Honor.

17 THE COURT: All right. 35C-3 is admitted.

18 (Government's Exhibit No. 35C-3 admitted)

19 MR. LINDQUIST: Your Honor, may we publish that
20 to the jury?

21 THE COURT: Yes.

22 MR. HODGE: Objection, Your Honor. Relevance.

23 (Exhibit playing)

24 THE COURT: I'm the one that caused it not to
25 be shown, because it was displaying material that isn't

1 relevant.

2 Is that where --

3 MR. LINDQUIST: (Indicating)

4 THE COURT: All right.

5 BY MR. LINDQUIST:

6 Q. Who is that?

7 A. That is Buddah. And I counting money in front of
8 him.

9 Q. What's happening now?

10 A. I just make a transaction of some marijuana.

11 MR. HODGE: Objection. Relevance.

12 THE COURT: Is there a section that gets to the
13 transaction?

14 MR. LINDQUIST: Yes.

15 BY MR. LINDQUIST:

16 Q. Now where are you going?

17 A. Walking out of the Savan area.

18 And this here is when I go on the side of Red Ball
19 to another individual.

20 Q. All right. Who is that?

21 A. Mr. Allen Dinzey.

22 Q. What's happening now?

23 A. Making arrangement to make a purchase of some crack
24 cocaine.

25 Q. Who is that?

1 A. Mr. Dinzey.

2 Q. What's happening now?

3 A. Mr. Dinzey bring out some crack cocaine in some
4 little plastic bag.

5 Q. What are you doing?

6 A. Counting them. Also counting the money in my hand
7 to pay Mr. Dinzey.

8 Q. Now what's happening?

9 A. Right there I'm tying the plastic bag with the
10 crack cocaine and walking out of the area.

11 Q. That ends the transaction; is that correct?

12 A. Yes, sir.

13 Q. And then after this took place, where did you go?

14 A. Walked down the street to my pickup spot to where
15 the agents told me to, would pick me up. They picked me
16 up.

17 I hand over the crack cocaine, marijuana, to the
18 agents, and the device was taken off of me by agents,
19 and we went to HIDTA headquarters.

20 Q. With regard to the seven purchases that you did
21 with law enforcement, did you follow essentially the
22 same procedure?

23 A. Same procedure, every time.

24 MR. LINDQUIST: Thank you, Mr. Phillips.

25 I have no further questions, Your Honor.

1 THE COURT: All right.

2 MR. HODGE: Court's indulgence?

3 THE COURT: Yes.

4 (Pause)

5 CROSS-EXAMINATION

6 BY MR. HODGE:

7 Q. Mr. Phillips, good afternoon.

8 A. Good afternoon.

9 Q. You -- you've testified about purchasing crack
10 cocaine from a person by the name of Mr. Dinzey?

11 A. Yes, sir.

12 Q. Is Mr. Dinzey in the room today?

13 A. Not that I know, sir.

14 Q. You also purchased crack cocaine from someone by
15 the name of Buddah, is that right?

16 A. Yes, sir.

17 Q. Is Buddah in the courtroom today?

18 A. Not that I noticed, sir.

19 Q. And it's your testimony that you were not paid
20 anything for your services?

21 A. No, sir.

22 MR. HODGE: Thank you.

23 No further questions, Your Honor.

24 THE COURT: All right.

25 Attorney Moore.

1 MR. MOORE: I have no questions, Your Honor.

2 THE COURT: All right. Redirect?

3 MR. LINDQUIST: No, thank you.

4 THE COURT: Mr. Phillips, thank you for your
5 testimony.

6 You may step down.

7 THE WITNESS: May I be excused, Your Honor?

8 THE COURT: Is there any further need for
9 Mr. Phillips?

10 MR. LINDQUIST: Not as far as I'm concerned.

11 THE COURT: Attorney Moore?

12 MR. MOORE: No, Your Honor.

13 THE COURT: Attorney Hodge?

14 MR. HODGE: No, Your Honor.

15 THE COURT: All right.

16 No. You're excused. Thank you, sir.

17 (Witness excused)

18 THE COURT: Next witness.

19 THE CLERK: At the end respond, "I do."

20 (Witness sworn)

21 THE WITNESS: Yes, I do.

22 THE CLERK: Please be seated.

23 THEREUPON, PATRICIA BURN, having been duly sworn,
24 was examined and testified as follows:

25 DIRECT EXAMINATION

1 BY MR. LINDQUIST:

2 Q. Good afternoon.

3 A. Good afternoon.

4 Q. Tell us who you are.

5 A. My name is Patricia Burn, B-u-r-n, and I'm a
6 forensic chemist for drug enforcement in Miami, Florida.

7 Q. How long have you done that?

8 A. With DEA, I've worked for them almost 11 years.
9 And prior to that I was a chemist with the U.S. Virgin
10 Islands for four and a half years.

11 Q. Give us an idea of what it is that you do as a
12 forensic chemist.

13 A. As a forensic chemist, my primary duty is to
14 analyze suspected drug substances and report my
15 findings.

16 Q. What qualifies you to do that?

17 A. I have a master's in forensic science and six
18 semester hours of drug analysis. And I received
19 training from both the U.S. Customs while working in the
20 U.S. Virgin Islands, and when I started working with
21 Drug Enforcement, I was trained six months with them as
22 well.

23 Q. From a practical standpoint, how many times have
24 you been involved in the analysis of some chemical
25 substance over the course of your career?

1 A. Well, it is part of my daily duties, so I average,
2 probably about 30 to 40 exhibits per month; and over the
3 course of 14 years, so.

4 Q. Do the multiplication?

5 A. Yeah. It's been quite a few.

6 Q. All right. All right. And what, what chemicals in
7 particular do you deal with?

8 A. Chemicals, or the controlled substances?

9 Q. I'm sorry. Poor choice of terms.
10 What substances?

11 A. We could deal with -- usually Schedule I or II
12 drugs, which are those drugs that -- Schedule I drugs
13 would have no medical use, and Schedule II would be some
14 limited medical use of drugs.

15 Q. Do these schedule drugs include cocaine?

16 A. Yes, it would, yes.

17 Q. Does that include crack cocaine?

18 A. Well, cocaine in general, yes.

19 Q. Okay. Including crack cocaine, is that right?

20 MR. HODGE: Objection. Asked and answered.

21 THE WITNESS: Yeah. I mean, we don't use the
22 word "crack cocaine." We use our, our chemical name for
23 that drug.

24 BY MR. LINDQUIST:

25 Q. And what is that chemical name?

1 A. Cocaine base.

2 Q. Can you just give us an idea of the methodology
3 that you utilize to analyze a substance for cocaine?

4 A. We do a series of tests, using instrumentation and
5 known standards of cocaine and we do a comparison-type
6 analysis.

7 Q. Is that particular methodology generally accepted
8 within the scientific community as far as determining
9 whether or not a substance contains cocaine?

10 A. Yes, that is correct. It is generally accepted.

11 Q. And is that the methodology that you have utilized
12 as you've testified to in the course of your career?

13 A. Yes, it is.

14 MR. LINDQUIST: Your Honor, I submit Ms. Burn
15 as an expert in chemical -- substance analysis,
16 particularly with regard to cocaine.

17 THE COURT: What's the methodology that you
18 use, Ms. Burn?

19 THE WITNESS: I'm not sure what you're asking.
20 Like what specifically --

21 THE COURT: How is it that you determine
22 whether a substance is a controlled substance or not?

23 What do you do, for instance?

24 THE WITNESS: Well, it's necessary that we have
25 two types of tests which are considered confirmatory,

1 and an example -- examples of those tests would be gas
2 chromatography with a mass spectrum detector, which
3 detects the mass or characteristic spectrum of the
4 substance.

5 And then another example would be infrared
6 spectroscopy, which gives another characteristic
7 spectrum.

8 THE COURT: Have you ever been qualified in any
9 court to testify as an expert -- Attorney Lindquist, do
10 you want to inquire on that?

11 MR. LINDQUIST: Thank you.

12 THE WITNESS: Yes, I have.

13 BY MR. LINDQUIST:

14 Q. And where, and how many times?

15 A. I've been qualified as an expert in Federal Court
16 70 -- more than 70 times, probably close to 78 times,
17 and in superior -- or State Court close to 200.

18 MR. LINDQUIST: With that, Your Honor, I would
19 ask that she be accepted as an expert in this field.

20 THE COURT: Attorney Hodge?

21 MR. HODGE: No objection, Your Honor.

22 THE COURT: Attorney Moore?

23 MR. MOORE: I have no objection, Your Honor.

24 THE COURT: All right. Patricia Burn will be
25 qualified as an expert in --

1 What area, Attorney Lindquist?

2 MR. LINDQUIST: In the area of substance
3 analysis, particularly with regard to cocaine.

4 THE COURT: All right.

5 (Continuing) -- as a forensic chemist in the area
6 of substance analysis, controlled substance analysis.

7 Ladies and gentlemen, you may recall that I told
8 you yesterday that most witnesses testify as fact
9 witnesses. There are some witnesses who have an
10 expertise in an area, and in that area they may testify
11 in the form of an opinion.

12 Ms. Burn has been qualified as an expert as a
13 forensic chemist in the analysis and identification of
14 controlled substances. So she may be permitted or she
15 is permitted to testify in the form of an opinion on
16 that subject.

17 Go ahead.

18 MR. LINDQUIST: Thank you.

19 BY MR. LINDQUIST:

20 Q. Ms. Burn, there in front of you, I think, are a
21 number of packages.

22 If you would look for 37B.

23 Do you have that?

24 A. Yes, I do.

25 Q. Do you recognize that?

1 A. Yes. I recognize my signature on both labels and
2 my handwriting.

3 Q. Tell us, if you would, generally speaking, what it
4 is that you do when something is submitted to you for
5 analysis, what you do as far as the packaging is
6 concerned, and then your analysis itself?

7 A. When I receive an item such as this for analysis,
8 it should be in a sealed, intact condition. And I take
9 note of that condition.

10 And I'll take a weight of the envelope with
11 everything before I open it, to compare that with the
12 paperwork that is submitted.

13 And then I proceed to open it and remove the
14 contents and take note of what is contained in the
15 packaging.

16 Q. With regard to this particular exhibit, 37B, when
17 you received it, describe for us the nature of the
18 packaging as far as the integrity of the seal.

19 A. The seal was intact, which I'm referring to the
20 upper seal here (indicating).

21 Q. And when you say "the seal was intact," was there
22 any perforation, any opening to the package at all?

23 A. No, not at all.

24 Q. So once you received it, then what did you proceed
25 to do?

1 A. I opened the packaging and I removed the contents,
2 taking note of the contents, and proceeded to analyze
3 the contents of the packaging.

4 Q. How did you analyze the contents of this particular
5 package?

6 A. This, this particular item, initially it was
7 several smaller packages. I believe, it was 20
8 packages. And I tested each of them individually using
9 an identification technique.

10 And finding that they were all the same substance,
11 I was able to combine them, and proceeded to do a full
12 analysis on the, on the mixed sample.

13 Q. All right. And what was the result of your
14 analysis, as far as determining what the substance
15 contained?

16 A. I found that the substance contained in this
17 package was cocaine base.

18 MR. LINDQUIST: Your Honor, I offer Exhibit 37B
19 into evidence -- before I do that, may I just ask one
20 more question?

21 THE COURT: Yes. Go ahead.

22

23 BY MR. LINDQUIST:

24 Q. When you were finished, what did you do with the
25 packaging?

1 A. When I finished with my analysis, I returned the
2 item to the original envelope and put my own seal on it
3 and dated it and heat-sealed it.

4 And then I took a weight after analysis, recorded
5 that on the envelope and then returned it to our vault
6 so that it could be returned for safekeeping. There's a
7 bar coding and they, I relinquish it to our evidence
8 technician.

9 Q. As you hold that exhibit in your hand today, 37B,
10 is it in the same condition as when you sealed it up
11 after your analysis?

12 A. Yes, it is.

13 MR. LINDQUIST: All right. I offer 37B into
14 evidence, Your Honor.

15 THE COURT: Attorney Hodge?

16 MR. HODGE: No objection, Your Honor.

17 MR. MOORE: I have none, Your Honor.

18 THE COURT: 37B is admitted.

19 (Government's Exhibit No. 37B admitted)

20 BY MR. LINDQUIST:

21 Q. Now, Ms. Burn, you indicated that when you analyzed
22 this when you first received it, there were individual
23 packages; is that correct?

24 A. Yes, it was.

25 Q. Describe those individual packages for us.

1 A. I believe they were clear Ziploc bags or clear
2 bags. I'm not sure if they were Ziploc.

3 Q. Okay. And can you give us an idea of their
4 dimension, their size?

5 A. I would have to refer to my notes.

6 Q. That's okay. I don't know if it's that -- do you
7 recall if you weighed each one of those?

8 A. I believe -- yeah. They were small, clear, Ziploc
9 bags, and they were labeled with a black "K," the letter
10 "K."

11 Q. And do you see those bags inside there?

12 Are they sealed inside that package?

13 A. No. I believe they were separated to be
14 fingerprinted.

15 Q. Okay. Do you recall if you weighed those
16 individual baggies?

17 A. No, I didn't do any weight of the substance until I
18 tested. And then once I, I tested everything and
19 determined that they all contained the cocaine base, I
20 combined the substance for a weight.

21 Q. All right.

22 MR. LINDQUIST: Your Honor, may I retrieve that
23 from the witness, so that it can be published on the
24 document camera?

25 THE COURT: Yes.

1 BY MR. LINDQUIST:

2 Q. Now, first we're seeing 37B, is that correct?

3 A. Yes, that is correct.

4 Q. And tell us what we're looking at there.

5 A. That is the evidence bag that I was just testifying
6 to.

7 Q. And this stuff here is the what?

8 A. That is the substance I determined to be cocaine
9 base.

10 Q. Or crack cocaine; is that correct?

11 A. It could be known as that, yes.

12 MR. LINDQUIST: Thank you.

13 Thank you, Your Honor. I have no further questions
14 of Ms. Burn.

15 THE COURT: Attorney Hodge?

16 CROSS-EXAMINATION

17 BY MR. HODGE:

18 Q. Good afternoon, Ms. Burn.

19 How are you?

20 A. Good afternoon.

21 Q. Tell me, is it accepted, an accepted method of
22 identification to simply go by the way a substance
23 looks?

24 A. I'm not sure what you're asking. But you cannot
25 assume something is, contains a certain substance just

1 by appearance, no.

2 Q. So basically, if you saw some white powder, that
3 wouldn't tell you that's got to be cocaine?

4 A. No, no, not at all. Not by appearance, no.

5 Q. So you would have a doubt at that point?

6 A. Yeah. I mean, without doing any analysis -- I
7 would never approach anything in that manner, sir.

8 Q. Okay. You're familiar with the concept of a field
9 test, right?

10 A. Yes.

11 Q. So even substances that are tested with a field
12 test, the field test isn't infallible, is it?

13 A. What a field test is, it's a chemical reaction.
14 And there's a series of chemicals, depending on the
15 substance being tested. And it's used in the field.
16 But it's considered scientifically as a presumptive
17 test, to presume something contains that substance,
18 meaning it's not conclusive.

19 Q. So there's some doubt at that point?

20 A. There's a possibility, yes.

21 Q. Okay.

22 MR. HODGE: I'm sorry. One moment, Your Honor?

23 THE COURT: Yes.

24 (Pause)

25 MR. HODGE: No further questions, Your Honor.

1 Thank you, ma'am.

2 THE COURT: All right. Thank you, Attorney.
3 Attorney Moore?

4 MR. MOORE: I have no questions, Your Honor.

5 THE COURT: Any redirect?

6 MR. LINDQUIST: No, thank you.

7 THE COURT: Ms. Burn, thank you for your
8 testimony. You may step down.

9 THE WITNESS: Thank you.

10 THE COURT: Next witness.

11 MR. LINDQUIST: Lannette Allison.

12 (Pause)

13 THE CLERK: Please raise your right hand. At
14 the end respond, "I do."

15 (Witness sworn)

16 THE WITNESS: I do.

17 THE CLERK: Please be seated.

18 THEREUPON, LANNETTE ALLISON, having been duly
19 sworn, was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. LINDQUIST:

22 Q. Good afternoon.

23 A. Good afternoon.

24 Q. Tell us your name, please.

25 A. Lannette Allison.

1 Q. What do you do for a living?

2 A. I'm a supervisory chemist.

3 Q. What do you do as a supervisory chemist?

4 A. It's my responsibility to supervise a group of
5 forensic chemists. By "supervise," I mean that I review
6 their case work prior to sending it out to courts.

7 Q. And where do you work as a supervisory chemist?

8 A. I work for the Drug Enforcement Administration in
9 Largo, Maryland.

10 Q. How long have you been a supervisory chemist?

11 A. I've been a supervisory chemist for two years.

12 Q. Prior to that, what did you do?

13 A. Prior to that, I was a senior forensic chemist.

14 Q. And a senior forensic chemist for how long?

15 A. Approximately two years.

16 Q. And before that?

17 A. I was a forensic chemist.

18 Q. All right. For how long?

19 A. For six years.

20 Q. All right. And all of those years, with whom?

21 A. The Drug Enforcement Administration.

22 Q. And before being with the Drug Enforcement
23 Administration, what did you do?

24 A. Before working for the Drug Enforcement
25 Administration, I worked for Solaire Genomics performing

1 DNA sequencing.

2 Q. Tell us, generally speaking, what a forensic
3 chemist does.

4 A. For the Drug Enforcement Administration, I perform
5 analysis on submitted drug evidence for the presence or
6 absence of controlled substances. And I also testify to
7 my findings in a court of law.

8 Q. Tell us what your qualifications are as a forensic
9 chemist. What allows you to do that?

10 A. I have a bachelor's of science degree in chemistry
11 from Jackson State University in Jackson, Mississippi.

12 I've completed an in-house training sponsored by
13 the Drug Enforcement Administration, which gives me the
14 certification to do the analysis that I do on the
15 submitted drug evidence.

16 I've also attended various instrumental courses
17 sponsored by the manufacturers of the instruments that
18 we use on a daily basis.

19 Q. Does this work address controlled substances?

20 A. Yes, it does.

21 Q. What kind of controlled substances?

22 A. Cocaine hydrochloride and cocaine base, heroin
23 hydrochloride, methylene dioxymethamphetamine,
24 methamphetamine, LSD, opium, marijuana and others;
25 steroids, pharmaceuticals.

1 Q. Give us an idea of your practical experience as far
2 as this work is concerned?

3 A. I've analyzed over a thousand exhibits.

4 Q. What portion of that relates to cocaine or cocaine
5 base?

6 A. As for cocaine base, I'm not sure; but cocaine in
7 general, approximately half of those exhibits.

8 Q. Does your work include having been qualified as an
9 expert in the courts?

10 A. Yes, it does.

11 Q. How many times have you been qualified as an expert
12 and testified in the court system?

13 A. Approximately 45 times.

14 Q. And where?

15 A. Here in St. Thomas, Virgin Islands; St. Croix,
16 Virgin Islands; San Juan, Puerto Rico; the District of
17 Columbia; and also Norfolk, Virginia.

18 Q. Can you give us an idea of the type of testing that
19 you would utilize as a forensic chemist with regard to,
20 for example, cocaine?

21 A. It depends on the sample, but typically there would
22 be instrumental tests and possibly color tests and a
23 purity test.

24 Q. And why, why the difference, why the variation?

25 A. There are lot of different tests that can be

1 utilized in order to identify a substance. And
2 therefore, depending on how the substance, the nature of
3 the substance, you get to determine which instruments
4 that you want to use in order to determine that sample.

5 Q. Are those particular tests generally accepted
6 within the scientific community as far as the
7 identification of controlled substances, particularly
8 cocaine?

9 A. Yes, they are.

10 MR. LINDQUIST: Your Honor, I would offer
11 Ms. Allison as an expert in the field of forensic
12 chemistry, specifically with regard to cocaine.

13 THE COURT: Ms. Allison, with respect to your
14 methodology, what two types of tests are typically used
15 or two most common types that may be used?

16 THE WITNESS: Infrared spectroscopy -- excuse
17 me. Infrared spectroscopy and also gas chromatography
18 coupled with a mass selective detector.

19 THE COURT: All right.

20 Attorney Hodge?

21 MR. HODGE: No objection, Your Honor.

22 THE COURT: Attorney Moore?

23 MR. MOORE: No objection.

24 THE COURT: All right. Ms. Allison will be
25 qualified as an expert forensic chemist in the analysis

1 and detection of controlled substances.

2 As I told you previously, ladies and gentlemen,
3 that allows Ms. Allison to testify in the form of an
4 opinion, unlike most of the other witnesses who you've
5 heard from who have testified as fact witnesses.

6 Go ahead.

7 MR. LINDQUIST: Thank you.

8 BY MR. LINDQUIST:

9 Q. Ms. Allison, look there in front of you, and I
10 think you'll see a number of packages. Look for the one
11 bearing the yellow sticker, 38B.

12 A. Yes, sir.

13 Q. Take a look at that and tell us if you recognize
14 it.

15 A. I'm sorry, just give me a second -- yes, I do.

16 Q. How is it that you're able to recognize it?

17 A. I recognize this exhibit by the initials on the
18 labels that are my initials, and also my initials on the
19 inside of the evidence envelope.

20 Q. When you received this particular exhibit, can you
21 tell us what, if anything, you did as far as evaluating
22 the integrity of the packaging?

23 A. The first thing I did when I received this exhibit
24 was to assure that the seals were intact, and they were
25 intact when I received this exhibit.

1 Q. What then did you do with regard to that exhibit?

2 A. I visually examined the contents of the exhibit,
3 along with the paperwork that was submitted with it, to
4 determine whether or not the case number, exhibit number
5 and also the primary description matched what was on the
6 paperwork.

7 And I also took a weight of this exhibit to ensure
8 that there was consistency with the weight of the
9 exhibit versus what was on the paperwork.

10 Q. What then did you do?

11 A. Then I proceeded to open the exhibit and prepare it
12 for analysis.

13 Q. What then happened?

14 A. I performed the analysis. I formed a conclusion.
15 Then I resealed the exhibit and returned it to the
16 vault.

17 Q. And as far as the particular test or tests that you
18 used in the analysis, tell us what they were?

19 A. I performed a color test on all the bags, and also
20 a GC mass spec, which was the GC -- the gas
21 chromatograph coupled with the mass selective detector,
22 on each of the bags.

23 Then I combined the bags and I then did a gas
24 chromatograph test and a purity test, and I used the gas
25 chromatography as well.

1 Q. And what did you conclude as far as the nature of
2 the substance?

3 A. I concluded that this exhibit contains cocaine base
4 at a purity of 87 percent pure.

5 Q. What then did you do as far as the packaging was
6 concerned?

7 A. I resealed it inside the envelope and returned it
8 to the vault.

9 Q. Tell us, that exhibit as you hold it in your hands
10 there today, does it differ at all from the integrity of
11 the package when you returned it to the vault after your
12 analysis?

13 THE COURT: Attorney Lindquist, if you can
14 refer to the exhibit number, so the record is clear.

15 MR. LINDQUIST: Thank you. I apologize.

16 BY MR. LINDQUIST:

17 Q. That 38B, as you hold that 38B there in your hands,
18 can you tell us how, how it is in relation -- is it any
19 different than when you sealed it and put it in the
20 vault after your analysis?

21 A. Do you mind if I look at my notes real quick?

22 Q. That's up to the judge.

23 THE COURT: Are you having a problem
24 recollecting something?

25 THE WITNESS: I'm having a problem

1 recollecting --

2 THE COURT: Yes or no?

3 THE WITNESS: I'm sorry. Yes, sir.

4 THE COURT: You are.

5 All right. You want to go through the protocol,
6 Attorney Lindquist?

7 MR. LINDQUIST: Sure.

8 BY MR. LINDQUIST:

9 Q. Is there something that you can look at that would
10 help refresh your recollection as far as what we're
11 talking about?

12 A. Yes, sir.

13 Q. And what would you be looking at?

14 A. My worksheet that bears the description of when I
15 resealed it.

16 Q. All right. Would -- go ahead and take a look at
17 that, and then when you're done, set it aside, if your
18 memory is refreshed. Okay?

19 A. Yes, sir.

20 (Pause)

21 Q. Is your memory refreshed?

22 A. Yes, sir, it is.

23 Q. All right. Now my question then is, that
24 Exhibit 38B, as you hold it in your hands, tell us how
25 it is, as far as its packaging integrity, in comparison

1 to when you submitted it or put it into the vault after
2 your analysis that day?

3 A. It's in the same condition as when I resealed it.

4 MR. LINDQUIST: Your Honor, I offer Exhibit 38B
5 into evidence, please.

6 THE COURT: Attorney Hodge?

7 MR. HODGE: No objection, Your Honor.

8 MR. MOORE: I have no objection, Your Honor.

9 THE COURT: All right. 38B is admitted.

10 (Government's Exhibit No. 38B admitted)

11 MR. LINDQUIST: Thank you.

12 BY MR. LINDQUIST:

13 Q. Ms. Allison, I think you indicated that when you
14 first received it, the exhibit contained individual
15 packages or baggies, is that correct?

16 A. Yes, sir.

17 Q. Can you tell us how many there were?

18 A. There were 20.

19 Q. And can you give us an idea of their dimension,
20 size?

21 A. I don't recall.

22 Q. Very good.

23 May I retrieve that so that we can publish that?

24 THE COURT: Yes.

25 BY MR. LINDQUIST:

1 Q. Ms. Allison, first you see the exhibit sticker 38B.
2 This is what you just had in your hands is that correct?

3 A. That is correct.

4 Q. And then --

5 THE COURT: Attorney Lindquist, speak into the
6 mic- -- you want to pull the microphone --

7 MR. LINDQUIST: Sorry.

8 BY MR. LINDQUIST:

9 Q. And then turning that over, what are we seeing
10 there?

11 A. That is the powder material that I combined to
12 perform my analysis.

13 Q. And we see another package that's attached to this.
14 And what does that consist of?

15 A. That is the, that contains the actual packaging of
16 the individual powder samples, rock samples.

17 Q. As you received them?

18 A. Yes, sir.

19 MR. LINDQUIST: Thank you very much.

20 Those are the questions that I have. Thank you.

21 THE COURT: Attorney Hodge?

22

23 CROSS-EXAMINATION

24 BY MR. HODGE:

25 Q. Good afternoon, Ms. Allison. How are you?

1 A. Good afternoon. I'm fine, thank you.

2 Q. Tell me, is it possible to identify cocaine by its
3 appearance alone?

4 A. No, sir.

5 Q. So even if you had a white, powdery substance, it
6 would be doubtful whether that was cocaine, correct?

7 A. I would have to perform an analysis to make a
8 positive identification.

9 Q. In other words, you would have at least a doubt?

10 A. Yes, sir.

11 MR. HODGE: Thank you.

12 No further questions, Your Honor.

13 THE COURT: Attorney Moore?

14 MR. MOORE: I have no questions, Your Honor.

15 THE COURT: Redirect?

16 MR. LINDQUIST: No, thank you.

17 THE COURT: Ms. Allison, thank you for your
18 testimony.

19 You may step down.

20 THE WITNESS: Thank you.

21 THE COURT: Next witness.

22 MR. LINDQUIST: Mr. Carlos Diaz.

23 (Pause)

24 THE CLERK: Please raise your right hand to
25 take the oath. At the end respond, "I do."

1 (Witness sworn)

2 THE WITNESS: I do.

3 THE COURT: Please be seated.

4 THEREUPON, CARLOS J. DIAZ, having been duly sworn,
5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. LINDQUIST:

8 Q. Good afternoon, sir.

9 A. Good afternoon.

10 Q. Tell us your name, would you?

11 A. Carlos J. Diaz.

12 Q. What do you do for a living, sir?

13 A. I'm a forensic chemist.

14 Q. And where do you work as a forensic chemist?

15 A. At the Southeast Lab for the DEA Drug Enforcement
16 Administration.

17 Q. How long have you worked there as a forensic
18 chemist?

19 A. Six and a half years.

20 Q. What are your qualifications -- what qualifies you
21 to be a forensic chemist?

22 A. I have a bachelor's degree in chemistry and a
23 bachelor's degree in criminal justice.

24 Q. And have you received formal training with specific
25 regard to forensic chemistry?

1 A. Yes.

2 Q. Tell us about that.

3 A. I completed an in-depth training at the Southeast
4 Lab, which included standard laboratory operating
5 procedures, instrumentation, and the analysis of
6 controlled and non-controlled substances.

7 Q. What's your practical experience, as far as the
8 analysis of controlled substances?

9 A. I have been analyzing controlled substances for
10 about five and a half years.

11 Q. And give us an idea of the kinds of controlled
12 substances that you have analyzed, perhaps telling us
13 first those that you analyze most often?

14 A. Cocaine, marijuana, heroin, methamphetamine.

15 Q. Can you give us an idea of how many times you have
16 analyzed a substance for cocaine, as best you can?

17 A. I would say, very roughly, rough number would be
18 about over 300, 400 times.

19 Q. Have you testified in court in your capacity as a
20 forensic chemist?

21 A. Yes, I have.

22 Q. How many times?

23 A. Approximately 25.

24 Q. And those approximately 25 times, were you
25 qualified as an expert in forensic chemistry?

1 A. Yes.

2 Q. Can you give us an idea of the particular tests
3 that are used in analyzing controlled substances,
4 particularly cocaine, as a forensic chemist?

5 A. Gas chromatography, that's one. And there's
6 another, gas chromatography/mass spectrometry. And
7 there's infrared spectroscopy.

8 Q. Are those particular tests generally accepted
9 within the scientific community as far as analyzing
10 controlled substances?

11 A. Yes.

12 MR. LINDQUIST: Your Honor, I offer Mr. Diaz as
13 an expert in the field of forensic chemistry.

14 THE COURT: Attorney Hodge?

15 MR. HODGE: No objection, Your Honor.

16 THE COURT: Attorney Moore?

17 MR. MOORE: None, Your Honor.

18 THE COURT: All right. Ladies and gentlemen,
19 Carlos Diaz will be qualified as an expert in forensic
20 chemistry, specifically the evaluation of whether a
21 substance has a controlled substance present.

22 As you may recall, that means that he can testify
23 in the form of an opinion.

24 Go ahead.

25 BY MR. LINDQUIST:

1 Q. Mr. Diaz, look there in front of you. You should
2 see some packaging. Look for some packages with the
3 yellow sticker 39A-2, first of all.

4 Do you have that, 39A-2?

5 A. Yes.

6 Q. Do you recognize it?

7 A. Yes, I do.

8 Q. How do you recognize it?

9 A. It has my label on the bottom and my information on
10 the label.

11 Q. When you received this exhibit, tell us what you
12 did as far as identifying the integrity of the
13 packaging?

14 A. When I received this exhibit, it had three factory
15 seals and one seal on the top made by the agent.

16 Q. Was it completely intact?

17 A. Yes.

18 Q. What did you do then with that exhibit once you
19 received it?

20 A. I proceeded to get, I proceeded to do my analysis.

21 Q. What analysis did you do?

22 A. I got a gross weight, first of all, then I get my
23 net weight, and then I proceeded to run the techniques I
24 said before.

25 Q. And as a result of that analysis, did you come to a

1 conclusion as to what this substance contained?

2 A. Yes.

3 Q. And what was that conclusion?

4 A. This exhibit contains cocaine base.

5 Q. Were you able to determine the purity level of it?

6 A. Yes.

7 Q. What was the purity level?

8 A. 70 percent.

9 Q. And when we talk about purity level, what is meant
10 by that?

11 A. It's the amount -- you have a net weight, that net
12 weight -- the amount of pure substance in the substance
13 itself.

14 Q. Once you had done your analysis, what did you do
15 with the packaging?

16 A. I sealed it up and returned it to the vault, to the
17 evidence custodian.

18 Q. That Exhibit 39A-2, as you hold it there in your
19 hands, does it differ at all from the way it was when
20 you sealed it up on that particular occasion?

21 A. No.

22 MR. LINDQUIST: Your Honor, I offer 39A-2 into
23 evidence please.

24 THE COURT: Attorney Hodge?

25 MR. HODGE: Relevance, Your Honor.

1 MR. MOORE: Your Honor, I'll just join my
2 colleague's objection.

3 THE COURT: All right. 39A-2 is admitted.
4 (Government's Exhibit No. 39A-2 admitted)

5 MR. LINDQUIST: Just set that aside, if you
6 would, sir.

7 THE WITNESS: (Complies)

8 BY MR. LINDQUIST:

9 Q. Now, if you would look for 39B-2. Do you have
10 that?

11 A. Yes.

12 Q. Do you recognize it?

13 A. Yes.

14 Q. And how do you recognize that?

15 A. It has my seal on the bottom, my label and my
16 information on the top.

17 Q. When you received it, what was the condition of the
18 packaging?

19 A. Three factory seals with an agency on the top.

20 Q. What did you do with that packaging?

21 A. I began my analysis.

22 Q. Tell us what you did.

23 A. I got my gross weight, my net weight, and then I
24 ran the techniques previously described.

25 Q. And in your opinion, what does the substance

1 contains?

2 A. It contains cocaine base.

3 Q. Did you determine the purity level?

4 A. Yes.

5 Q. What was that?

6 A. Seventy percent.

7 Q. After you did your analysis, what then did you do
8 as far as the substance was concerned and the packaging?

9 A. I sealed it and returned it to the evidence vault.

10 Q. That Exhibit 39B-2, as you hold it there in your
11 hands, how does it compare to how it was when you sealed
12 it up on that particular day?

13 A. It is, it looks the same.

14 MR. LINDQUIST: I offer Exhibit 39B-2.

15 THE COURT: Attorney Hodge?

16 MR. HODGE: Same objection.

17 THE COURT: Attorney Moore?

18 MR. MOORE: Same response, Your Honor.

19 THE COURT: All right. 39B-2 is admitted.

20 (Government's Exhibit No. 39B-2 admitted)

21 BY MR. LINDQUIST:

22 Q. Now, Mr. Diaz, if you would also look there for
23 package bearing Exhibit Number 40B --

24 THE COURT: Attorney Lindquist, are there a
25 group or is there a group that the witness will be

1 testifying about, that perhaps might be susceptible to
2 collective testimony?

3 MR. LINDQUIST: This actually is the third of
4 the three that he's going to be addressing.

5 THE COURT: All right.

6 BY MR. LINDQUIST:

7 Q. Do you see 40B?

8 A. Yes.

9 Q. Do you recognize that?

10 A. Yes.

11 Q. And how is it that you're able to recognize that?

12 A. It has my seal on the bottom, and my information on
13 the top, on the top seal.

14 Q. And when you received this, did you verify the
15 integrity of the packaging?

16 A. Yes.

17 Q. And tell us about that, was it intact?

18 A. I see here that there's some information, this
19 could have been re- -- I could have done a reanalysis on
20 this, I believe, I don't have the report for that with
21 me, but it had the other chemist's seal on the bottom,
22 and the two factory seals on the top and the agency on
23 the top.

24 Q. The significant thing is when you received it, was
25 the packaging intact?

1 A. Yes.

2 Q. All right. What did you do then, as far as that
3 item was concerned?

4 A. I proceeded to my analysis, net weight -- gross
5 weight, net weight, and I ran my tests.

6 Q. And as a result of your testing, what conclusion
7 did you reach as far as the nature of the substance?

8 A. I do not have that report in front of me at this
9 moment.

10 Q. Do you have it somewhere?

11 A. I do not have it with me in this particular time.

12 Q. I'm sorry?

13 A. I do not have it with me at this particular time.

14 Q. All right. Let's just, just set that aside for now
15 and we'll deal with that later.

16 (Pause)

17 MR. LINDQUIST: All right, Mr. Diaz. Thank you
18 very much, sir.

19 Thank you, Your Honor. Those are the questions
20 that I have.

21 THE COURT: Attorney Hodge.

22

23 CROSS-EXAMINATION

24 BY MR. HODGE:

25 Q. Good afternoon, Mr. Diaz.

1 A. Good afternoon.

2 Q. How are you?

3 A. All right.

4 Q. Tell me, is it possible to identify cocaine merely
5 by visual inspection?

6 A. I do not believe so, scientifically, no.

7 Q. So even if there were some white powder found,
8 there would be a doubt, to say the least, as to whether
9 or not that was cocaine?

10 A. It would be suspicious. But until you run, until
11 you run the tests, you cannot say -- I cannot say it's
12 cocaine.

13 Q. Okay. So as a reasonable person, there would be a
14 doubt?

15 A. Yeah, there could be a doubt, yes.

16 MR. HODGE: Thank you.

17 No further questions.

18 THE COURT: Attorney Moore?

19 MR. MOORE: No questions of the witness, Your
20 Honor.

21 THE COURT: All right.

22 Redirect?

23 MR. LINDQUIST: No, Your Honor.

24 THE COURT: Mr. Diaz, thank you for your
25 testimony.

1 You may step down.

2 Next witness.

3 MR. LINDQUIST: Elizabeth Adkins.

4 (Pause)

5 THE CLERK: Please take the witness box and
6 please raise your right hand to take the oath. At the
7 end respond, "I do."

8 (Witness sworn)

9 THE WITNESS: I do.

10 THEREUPON, ELIZABETH ADKINS, having been duly
11 sworn, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. LINDQUIST:

14 Q. Good afternoon.

15 A. Good afternoon.

16 Q. Tell us your name, please.

17 A. Elizabeth Adkins.

18 Q. What do you do?

19 A. I'm a forensic chemist.

20 Q. How long have you been a forensic chemist?

21 A. Almost nine years.

22 Q. Tell us what your qualifications are as a forensic
23 chemist.

24 A. I have a bachelor of science degree from Ohio
25 University in forensic chemistry. I have six months

1 in-house training, and I've had training along the way
2 in my job.

3 Q. From a practical standpoint, what experience do you
4 have as far as a forensic chemist -- I'm sorry, let's
5 approach it this way.

6 Tell us, generally speaking, what you do as a
7 forensic chemist?

8 A. I analyze exhibits that are assigned to me. I
9 write down my findings in a report and I testify in
10 court when I'm needed.

11 Q. When I refer to your practical experience, how many
12 times have you been -- how many times have you evaluated
13 substances over the course of the years that you've
14 indicated?

15 A. I've analyzed about 5,000 exhibits.

16 Q. Can you give us an idea of the substances involved
17 in that, indicating perhaps those that are most
18 prominent?

19 A. Are you talking about controlled substances?

20 Q. Yes.

21 A. The most prominent would be cocaine, either crack
22 or cocaine hydrochloride, heroin, methamphetamine and
23 marijuana are the most common.

24 Q. You've indicated that you've testified in court; is
25 that correct?

1 A. Yes.

2 Q. How many times?

3 A. About 80 times.

4 Q. Can you give us an idea of where these courts are
5 that you've testified?

6 A. St. Thomas, St. Croix, Puerto Rico, Florida,
7 North/South Carolina, Tennessee, Ohio, Wisconsin,
8 Indiana and Illinois.

9 Q. In these testimonies, have you been qualified as an
10 expert, as a forensic chemist?

11 A. Yes, I have.

12 Q. Can you give us an idea the particular tests that
13 are commonly used in the analysis of controlled
14 substance, particularly cocaine?

15 A. I use a gas chromatograph/mass spectrometer, a gas
16 chromatograph, and an infrared spectrophotometer.

17 MR. LINDQUIST: Your Honor, I offer Ms. Adkins
18 as an expert in forensic chemistry.

19 THE COURT: Attorney Hodge?

20 MR. HODGE: No objection, Your Honor.

21 THE COURT: Attorney Moore?

22 MR. MOORE: I have no objection, Your Honor.

23 THE COURT: All right. Elizabeth Adkins will
24 be qualified as a forensic chemist in the area of
25 analyzing the presence of controlled substances.

1 Ladies and gentlemen, as I have told you, that
2 means that Ms. Adkins may testify in the form of an
3 opinion in the area in which she is qualified as an
4 expert.

5 Go ahead.

6 MR. LINDQUIST: Thank you.

7 BY MR. LINDQUIST:

8 Q. Ms. Adkins, there in front of you are some
9 packages. Look for the one that has the yellow sticker
10 on it, 41B.

11 Do you have that?

12 A. Yes.

13 Q. Do you recognize it?

14 A. Yes, I do.

15 Q. How is it that you recognize it?

16 A. I recognize it by my handwriting on the sticker
17 here, my seal at the bottom, and signature, and the
18 handwriting is mine on the interior packaging.

19 Q. How is it that this came into your possession?

20 A. I was assigned it by my supervisor to analyze.

21 Q. When this -- when it came into your possession, did
22 you evaluate the integrity of the packaging when you got
23 it?

24 A. Yes, I did.

25 Q. Why did you do that?

1 A. Every piece of evidence I get, I make sure that it
2 is sealed before I start.

3 Q. Why is that?

4 A. To ensure that nothing was tampered with on the
5 inside.

6 Q. And the condition of this particular exhibit when
7 you got it, what was it?

8 A. It was sealed.

9 Q. What did you do after you received it?

10 A. After I received it, I took a weight of the heat
11 seal here and everything inside and recorded it.

12 Q. What then did you do?

13 A. And then I proceeded to analyze the exhibit with
14 the instrumentation I said earlier.

15 Q. And what conclusion, if any, did you reach as far
16 as the nature of the substance contained therein?

17 A. The exhibit contained cocaine base.

18 Q. And did you identify the purity level of it?

19 A. Yes.

20 Q. What was the purity level?

21 A. Seventy-three percent.

22 Q. After you did your analysis, what then did you do?

23 A. I repackaged the drug and placed it inside, and
24 took a weight and then I returned it to the vault.

25 Q. And can you tell us, the package as you hold it in

1 your hands there today, the nature or the integrity of
2 the packaging in relation to when you returned it to the
3 vault after your analysis?

4 A. Yes, it's the same.

5 MR. LINDQUIST: I offer Exhibit 41B into
6 evidence, please.

7 MR. HODGE: Your Honor, I object as to
8 relevance. And this is the same objection as for each
9 of the substance exhibits.

10 THE COURT: Attorney Moore?

11 MR. MOORE: Your Honor, I have a continuing
12 objection as well, but I have no specific objection to
13 this.

14 THE COURT: All right. 41B is admitted.

15 (Government's Exhibit No. 41B admitted)

16 MR. LINDQUIST: Those are the questions that I
17 have of Ms. Adkins. Thank you.

18 THE COURT: Attorney Hodge?

19 CROSS-EXAMINATION

20 BY MR. HODGE:

21 Q. Good afternoon, Ms. Adkins. How are you?

22 A. Good. How are you?

23 Q. Not too bad.

24 Tell me something: Is it possible to identify
25 cocaine by eyesight alone?

1 A. No.

2 Q. So even if a substance were white powder, to say
3 the least, you would have a doubt as to whether or not
4 it could be cocaine?

5 A. Well, I wouldn't form an opinion until I performed
6 the instrumental analysis I talked about earlier.

7 Q. Because there would be no way to tell?

8 A. No, not just by looking. You couldn't be a hundred
9 percent sure.

10 MR. HODGE: Thank you.

11 No further questions.

12 THE COURT: Attorney Moore?

13 MR. MOORE: No questions, Your Honor.

14 THE COURT: Redirect?

15 MR. LINDQUIST: No, thank you.

16 THE COURT: Ms. Adkins, thank you for your
17 testimony.

18 You may step down.

19 Next witness.

20 MR. LINDQUIST: Deepa Vanmali.

21 (Pause)

22 THE CLERK: Please raise your right hand to
23 take the oath. At the end respond, "I do."

24 (Witness sworn)

25 THE WITNESS: Yes, I do.

1 THEREUPON, DEEPA VANMALI, having been duly sworn,
2 was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. LINDQUIST:

5 Q. Good afternoon.

6 A. Good afternoon.

7 Q. Tell us your name, please.

8 A. Deepa Vanmali.

9 Q. And what do you do for a living, ma'am?

10 A. I'm a forensic chemist with the Drug Enforcement
11 Administration.

12 Q. How long have you been a forensic chemist with DEA?

13 A. Approximately six and a half years.

14 Q. Prior to that, were you involved in forensic
15 chemistry?

16 A. Not in forensic chemistry, but in forensics. I was
17 a crime scene investigator.

18 Q. Tell us what your qualifications are as a forensic
19 chemist?

20 A. I have a bachelor of science degree in forensic
21 science, with a minor in chemistry.

22 Q. Give us an idea, in a word or two, what you do as a
23 forensic chemist?

24 A. I'm responsible for the analysis of evidence that's
25 submitted to the laboratory for the presence of

1 controlled and non-controlled substances.

2 I also testify to those findings if needed, and
3 assist law enforcement in the seizure of clandestine
4 laboratories.

5 Q. What's your practical experience as far as
6 forensics chemistry in the analysis of controlled
7 substances?

8 A. I had approximately seven months of on-the-job
9 training at the laboratory. And that consisted of
10 standard laboratory operating procedures,
11 instrumentation, and analysis of evidence.

12 Q. Have you testified in court as a forensic chemist?

13 A. Yes, I have.

14 Q. How many times?

15 A. Twenty-five times.

16 Q. Were you qualified as an expert in forensic
17 chemistry in conjunction with that testimony?

18 A. Yes, I was.

19 Q. Are there particular controlled substances that you
20 have worked with more than others in your work as a
21 forensic chemist?

22 A. Yes.

23 Q. What are the more prominent ones?

24 A. Cocaine, methamphetamine and marijuana.

25 Q. Are there particular tests that you utilize in

1 testing a substance for cocaine?

2 A. Yes.

3 Q. What are those tests?

4 A. Gas chromatography, mass spectroscopy and Fourier
5 transform infrared spectroscopy.

6 Q. Are those tests generally accepted within the
7 scientific community for those purposes?

8 A. Yes.

9 MR. LINDQUIST: Your Honor, I offer Ms. Vanmali
10 as an expert in forensic chemistry particularly with
11 regard to the analysis of substances for cocaine.

12 THE COURT: Attorney Hodge?

13 MR. HODGE: No objection, Your Honor.

14 THE COURT: Attorney Moore?

15 MR. MOORE: No objection.

16 THE COURT: All right. Ms. Vanmali will be
17 qualified as an expert in forensic chemistry,
18 specifically in the area of analyzing the presence of
19 controlled substances.

20 Ladies and gentlemen, that means, as I've told you,
21 as an expert Ms. Vanmali may testify in the form of an
22 opinion in the area in which she is qualified.

23 Go ahead.

24 MR. LINDQUIST: Thank you.

25 BY MR. LINDQUIST:

1 Q. Look there in front of you. There are some
2 packages. And if you would try and find the packages
3 with Exhibit Numbers 35B and 36B on them?

4 A. Yes, I have it in front of me.

5 Q. Do you -- let's start with 35B. Do you recognize
6 that?

7 A. Yes, I do.

8 Q. How is it that you recognize that?

9 A. I recognize it by my handwriting that's on the
10 interior bags, and also my handwriting on the seal that
11 I placed at the bottom of the evidence envelope.

12 Q. And look at 36B, and tell us if you recognize that
13 as well?

14 A. Yes, I do.

15 Q. How do you recognize that?

16 A. The same as Exhibit 35B. I recognize this by my
17 handwriting on the interior bags and the, my handwriting
18 on the seal that I put at the bottom of the evidence
19 envelope.

20 Q. How did these items come into your possession?

21 A. I received these at the Southeast Laboratory, from
22 the evidence technician.

23 Q. When you received them, did you evaluate the
24 integrity of the packaging?

25 A. Yes. I ensured that there wasn't any signs of

1 tampering and I ensured that the seal placed by the
2 agent was intact.

3 Q. Did you do that for both Exhibit 35B and 36B?

4 A. Yes.

5 Q. What did you find as far as the integrity of the
6 packaging?

7 A. That it was in a sealed condition.

8 Q. What then did you do with regard to 35B?

9 A. I verified the information on the evidence label to
10 the information on the DEA 7. And the DEA 7 is the form
11 that's submitted with the evidence itself.

12 I then obtained a gross weight of the package,
13 which is the weight of the entire evidence envelope and
14 its contents. And then I proceeded to open the evidence
15 envelope at the bottom and remove the contents for my
16 analysis.

17 Q. And what -- same question with regard to
18 Exhibit 36B.

19 A. Yes. I did the same thing. I verified the
20 information on the evidence label against the
21 information on the DEA 7.

22 I obtained a gross weight, and then I opened up the
23 heat seal at the bottom to remove the contents for
24 analysis.

25 Q. What then did you do from an -- analytically, with

1 regard to the contents of those exhibits, 35B and 36B?

2 A. I obtained a net weight of the substance, which is
3 the weight of just the substance alone.

4 Q. What then did you do as far as the analysis?

5 A. And then I proceeded to grind the substance and
6 remove a portion for analysis.

7 Q. Now when you say grind the substance, why did you
8 have to grind the substance?

9 A. I grind it so that it's uniform in size, the
10 mixture is completely mixed, so that it's -- in
11 chemical -- chemistry words -- it's homogenous.

12 Q. And what tests did you perform as far as analyzing
13 those substances in 35B and 36B?

14 A. I performed a Fourier transform infrared
15 spectroscopy, gas chromatography/mass spectroscopy, and
16 gas chromatography coupled with flame ionization
17 detection.

18 Q. And what were the results of your analysis as far
19 as Exhibit 35B is concerned?

20 THE WITNESS: Your Honor, may I refer to my
21 notes?

22 THE COURT: Do you have a problem recollecting?

23 THE WITNESS: I just want to verify. I don't
24 want to misspeak.

25 THE COURT: All right .

1 You want to take her through the protocol?

2 MR. LINDQUIST: Sure.

3 BY MR. LINDQUIST:

4 Q. Is there something you can look at that would
5 refresh your recollection in that regard?

6 A. Yes. It's my report.

7 Q. Go ahead and take a look at that, and once you've
8 refreshed your recollection, put it aside and let us
9 know.

10 (Pause)

11 A. Okay. Government's Exhibit 35B contained cocaine
12 base with a net weight of 4.9 grams and a purity of
13 90 percent.

14 Q. And 36B, what was the result of your analysis?

15 Once again, do you need to refresh your
16 recollection?

17 A. Yes.

18 Q. All right. Take a moment and do that, and let us
19 know when your memory is refreshed.

20 (Pause)

21 A. Okay.

22 Q. Okay?

23 A. Yes.

24 Q. Now, tell us.

25 A. Government's Exhibit 36B contained cocaine base

1 with a purity of 90 percent and a net weight of
2 7.5 grams.

3 Q. Once you had done your analysis, what did you do as
4 far as the packaging was concerned?

5 A. I placed it back into the original evidence
6 envelope.

7 Q. And that is both with regard to 35B and 36B?

8 A. Yes.

9 Q. And as far as sealing it, what did you do?

10 A. Excuse me?

11 Q. As far as sealing it, what did you do?

12 A. I placed the seal at the bottom, where I had opened
13 it, and I heat-sealed the evidence envelope for both of
14 them.

15 Q. Now, those exhibits, 35B and 36B, as you hold them
16 in your hands there today, from a standpoint of
17 packaging integrity, how do they compare with the way
18 they were after you performed your analysis?

19 A. They're in the same condition as when I last seen
20 them.

21 Q. Thank you.

22 MR. LINDQUIST: Your Honor, I offer 35B and 36B
23 into evidence.

24 THE COURT: Attorney Hodge?

25 MR. HODGE: Same objection, Your Honor.

1 MR. MOORE: I join, Your Honor.

2 THE COURT: All right. 35B and 36B are
3 admitted.

4 (Government's Exhibit Nos. 35B, 36B admitted)

5 MR. LINDQUIST: Thank you.

6 I have no further questions of Ms. Vanmali.

7 THE COURT: Attorney Hodge?

8 CROSS-EXAMINATION

9 BY MR. HODGE:

10 Q. Good afternoon, Ms. Vanmali. How are you?

11 A. I'm good, thank you.

12 Q. Tell me, is it possible to detect cocaine based
13 purely on a visual inspection?

14 A. No.

15 Q. So even if a substance, a white powdery substance
16 may appear to look like cocaine, one would have to have
17 at least a doubt as to whether or not it was actually
18 cocaine?

19 A. You would have to do some kind of test to either
20 give you an idea that it might be cocaine, or a
21 confirmatory test to confirm that it is cocaine.

22 Q. In fact, even a field test -- you're familiar with
23 the field test, correct?

24 A. The color tests?

25 Q. I, I... In our discovery, we -- the officers

1 occasionally make reference to --

2 THE COURT: All right. Stop. Stop.

3 MR. LINDQUIST: I would object --

4 THE COURT: No. Ask a question. It's not a
5 discussion. Just ask a question.

6 BY MR. HODGE:

7 Q. Are you familiar with the field test?

8 A. Yes.

9 Q. Okay. So is the field test conclusive?

10 A. No. It just gives you an idea of what may be, what
11 the sample may be.

12 Q. So even with, even a substance that has been field
13 tested and field tested positive, it's doubtful whether
14 it will actually turn out to be cocaine in the end?

15 A. Yes, but like I said, it will give you an idea that
16 it might be cocaine if it tests positive.

17 MR. HODGE: Thank you.

18 No further questions, Your Honor.

19 THE COURT: All right.

20 Attorney Moore?

21 MR. MOORE: Yes, Your Honor.

22

23

24 FURTHER CROSS-EXAMINATION

25 BY MR. MOORE:

1 Q. Good evening, Ms. Vanmali.

2 A. Good evening.

3 Q. Part of your basic training with the DEA, the
4 courses you take, is one of the courses one to train on
5 how to testify in court?

6 A. No, we -- not exactly. We actually have training
7 in courtroom procedures and demeanor.

8 MR. MOORE: Thank you.

9 No further questions.

10 THE COURT: Attorney Lindquist, redirect?

11 MR. LINDQUIST: No, thank you.

12 THE COURT: Ms. Vanmali, thank you for your
13 testimony.

14 You may step down.

15 THE WITNESS: Thank you.

16 THE COURT: Next witness?

17 MR. LINDQUIST: Your Honor, would you grant us
18 a sidebar?

19 THE COURT: All right. Yes.

20 (Sidebar discussion held as follows).

21 MR. MOORE: Your Honor, I may need a
22 physiological break shortly, Your Honor. Or I'll be
23 dancing back here.

24 THE COURT: Okay. I thought the government was
25 at the end, that's why I --

1 MR. LINDQUIST: Well, that's really what I
2 would like to address. I anticipate three more
3 witnesses. We're a full day ahead of schedule.

4 The two next witnesses that I have, because of the
5 logistics and the trial starting on Monday as opposed to
6 Tuesday, were not able to arrive until -- one comes in
7 tomorrow morning. The other one, I'm not sure is even
8 in.

9 And so what I was wondering, if we could break for
10 the evening so I would have an opportunity to get these
11 witnesses squared away, and then start first thing in
12 the morning.

13 We anticipate being done tomorrow.

14 THE COURT: Well, let's take the one you have
15 tonight, then. The jurors are ready to work. We've had
16 issues and as we head into --

17 MR. LINDQUIST: The one we have tonight is Mark
18 Joseph, and he's going to be several hours.

19 THE COURT: We need to start him, then. We
20 need to start him.

21 MR. LINDQUIST: How -- may I ask --

22 THE COURT: I suspect if there is someone who
23 is a Seventh Day Adventist, we will ending early on
24 Friday, guaranteed.

25 The defense so far has indicated that they intend

1 to put on a case. We already have issues with jurors.
2 I don't know how long the defense case will be.

3 MR. MOORE: Can I give you an indication?

4 THE COURT: Certainly.

5 MR. MOORE: For the benefit of all concerned.
6 I anticipate potentially four witnesses on behalf of
7 Mr. Blyden. I think there's a brief case, as well, put
8 on by Mr. Mark, who can speak for himself -- Mr. Hodge
9 will speak for himself.

10 THE COURT: Right. And I suspect there will be
11 arguments on Rule 29 and just a few other things. So --

12 MR. LINDQUIST: Well --

13 THE COURT: -- I have a jury now that's willing
14 to listen, and I don't know if I'll have this option
15 tomorrow. Tomorrow is -- are all the defense witnesses
16 here and ready to go?

17 MR. MOORE: No, Your Honor. But --

18 THE COURT: I mean not now, obviously;
19 tomorrow.

20 MR. MOORE: Yes, but there's -- we have a
21 Damian Daniel to call back, if you want to do something
22 with him tomorrow for -- I got the, I got the
23 information I need. I still need 103's.

24 THE COURT: You said -- you said you don't know
25 if, one of your witnesses, when they're coming in.

1 MR. LINDQUIST: I don't know if he's arrived.
2 I know that one is not here until tomorrow. And I don't
3 know if the other one has arrived. And from a
4 foundational standpoint, I need the one that I don't
5 know that has arrived yet before Mark Joseph testifies.

6 THE COURT: Well, you can offer testimony
7 subject to connection. Is this people who are going to
8 testify about the MODs?

9 MR. LINDQUIST: The MO disks.

10 THE COURT: I don't --

11 MR. LINDQUIST: Can you give us an idea of how
12 late we're going this evening?

13 THE COURT: I would like to go for another
14 20 minutes or 30 minutes, if -- hold on one second.

15 (Pause)

16 THE COURT: Yeah, I think we can go for a
17 little bit longer, maybe another 20 minutes or so,
18 25 minutes.

19 I'm going to pose a question to them soon, and I'll
20 see how -- I'll gauge their response and see if they can
21 hang in there.

22 But this jury is ready to work today, and I would
23 like to take advantage of it. And I suspect we'll end
24 early tomorrow. And I haven't inquired, nor do I plan
25 to unless it's brought to my attention, whether there's

1 a Seventh Day Adventist in there. But usually there is.

2 And I think we're fortunate no one has said that
3 they need to get back to St. John. That's something
4 else that I'm concerned about.

5 We've already had one person who has canceled their
6 vacation, another person who has said that they had a
7 bunch of trips planned for work. So if they're here and
8 they're willing to work, I like to push them, to the
9 extent that they can accommodate the pushing.

10 So I would like to get as much testimony in, is the
11 short answer. And I suspect that notwithstanding the
12 unavailability of Mr. Velez, if he's coming here, then
13 there's something that Mr. Joseph needs to testify to
14 that requires Mr. Velez's testimony, the Court can
15 always conditionally take evidence subject to connection
16 at some later time.

17 MR. LINDQUIST: Okay.

18 THE COURT: So let's proceed.

19 MR. MOORE: Your Honor, am I allowed to take
20 this break? I mean, just five minutes.

21 THE COURT: Yeah, we might -- well, let me pose
22 my question to the jury, but, yes -- I don't want you --

23 (Laughter).

24 MR. MOORE: Thank you, Your Honor.

25 MR. LINDQUIST: You're going to pose that

1 question now?

2 THE COURT: Yes.

3 (End sidebar discussion, open court as follows)

4 THE COURT: Ladies and gentlemen, I know it is
5 late in the day and this trial has been going on.
6 You've been so patient and so cooperative. I would like
7 to spend another 20 more minutes tonight. If you can do
8 that without a break, fine.

9 But if you need a break, we'll take a short break
10 now. We'll come back, we'll get 20 more minutes of
11 testimony in, if you can handle it, and then we'll
12 resume tomorrow.

13 I think we're at a point where, I think, we can
14 move the trial along, and I want you to get as much
15 evidence as possible during the day. And I know it's
16 been a long one already.

17 Would you like a break now, or would you like to
18 just go through?

19 (Jurors indicating)

20 THE COURT: All right. I think the jury is
21 saying, "Let's go," meaning let's proceed with the
22 trial.

23 So Attorney Lindquist, call your next witness.

24 MR. LINDQUIST: Mark Joseph.

25 THE COURT: This is a hard-working group of

1 jurors.

2 (Pause)

3 THE CLERK: At the end respond, "I do."

4 (Witness sworn)

5 THE WITNESS: I do.

6 THE CLERK: Please be seated.

7

8 THEREUPON, MARK JOSEPH, having been duly sworn, was
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. LINDQUIST:

12 Q. I don't know whether it's afternoon or evening, but
13 good afternoon or evening.

14 A. Good evening.

15 Q. Who are you?

16 A. My name is Mark Joseph.

17 Q. And where do you work, sir?

18 A. I'm a detective with the Virgin Islands Police
19 Department.

20 Q. How long have you been with VIPD?

21 A. I've been with VIPD seven years.

22 Q. And prior to that, were you involved in law
23 enforcement?

24 A. Yes. I was with the V.I. Housing police for seven
25 years; a total of fourteen years.

1 Q. Where were you born and raised?

2 A. Born and raised here in St. Thomas.

3 Q. And went to school here as well?

4 A. Yes.

5 Q. Just give us an idea of your educational
6 background.

7 A. I graduated high school from here, went to college,
8 have an associate's degree in police science from the
9 University of The Virgin Islands.

10 Q. During your work with VIPD, have you had occasion
11 to work with federal agencies?

12 A. Yes. I am a deputized federal agent with the Drug
13 Enforcement Administration. I've been in that
14 assignment for the last 12 years.

15 Q. Can you give us an idea of your involvement in the
16 investigation that, generally speaking, that brings us
17 into court today?

18 MR. HODGE: Objection. Leading.

19 THE COURT: Overruled.

20 THE WITNESS: Yes. I was a co-case agent and
21 assisted with the end phases of the investigation.

22 BY MR. LINDQUIST:

23 Q. Did that involvement include the telephone
24 interceptions?

25 A. Yes.

1 MR. LINDQUIST: Your Honor, if I may, I'm not
2 sure...

3 BY MR. LINDQUIST:

4 Q. Detective Joseph, are there some exhibits up there,
5 41, 42 and 43, and some large Expando files?

6 Do you see them?

7 A. Would you say the numbers again?

8 Q. 41 -- excuse me -- 42, 43 and 44?

9 A. Yes.

10 Q. Take a look at the file that's got the number "42"
11 on it. Do you see Exhibit 42A in there?

12 A. Yes.

13 Q. Do you recognize that?

14 A. Yes.

15 Q. And what is that?

16 A. This is the, what's called an MO disk. It's an
17 original recording of an intercepted -- calls from an
18 intercepted telephone.

19 Q. What was your involvement as far as the telephone
20 interceptions were concerned?

21 A. I was a monitor, which meant that I listened to the
22 actual telephone calls. I also assisted in the
23 transcribing of the voice calls into written media.

24 Q. Okay. And the particular MO disk that you're
25 looking at there, Exhibit 42A, that corresponded to what

1 telephone number?

2 A. This corresponded to telephone number 340-344-6598.

3 Q. And who was the individual associated with that
4 telephone number?

5 A. Allen Dinzey.

6 MR. HODGE: Objection. Foundation.

7 THE COURT: Overruled.

8 THE WITNESS: Mr. Allen Dinzey.

9 BY MR. LINDQUIST:

10 Q. And also look in there at Exhibit 42B. Do you see
11 that?

12 A. Yes.

13 Q. Do you recognize that?

14 A. Yes.

15 Q. What's 42B in relation to 42A?

16 A. This is what's called a working copy.

17 The original stays sealed, and a copy is made that
18 can be used to do other things with.

19 Q. Were you involved in the creation of that working
20 copy?

21 A. I did not make the copy, no.

22 Q. Take a look at Exhibit 43A. It's in that other
23 file folder there.

24 Do you recognize that, 43A?

25 A. Yes.

1 Q. What's that?

2 A. This is also an MO disk of calls that were
3 intercepted on the telephone line.

4 Q. And what telephone number is associated with that?

5 A. 954-558-6188.

6 Q. And what individual is associated with that number?

7 A. Mr. --

8 MR. HODGE: Objection. Foundation.

9 THE COURT: Sustained.

10 Actually, I'm going to reverse my ruling on 42A.
11 The number is in, but the association, the person to
12 whom the number is ascribed, you'll disregard that
13 portion with respect to 42A.

14 Go ahead.

15 BY MR. LINDQUIST:

16 Q. Take a look at 43B. Do you see that?

17 A. Yes.

18 Q. What's that?

19 A. This is a working copy of the calls from 43- --

20 Q. 43A?

21 A. -- 43A, yes.

22 Q. And as far as the content is concerned, what's the
23 relationship between 43B and 43A?

24 A. It's a copy of all the calls that are on 43A.

25 Q. Talking about the MO disk -- well, let's go on.

1 Go ahead and set that aside, and let's look at 44A.
2 And then we'll come back to that.

3 Do you recognize 44A?

4 A. Yes.

5 Q. And what is that?

6 A. This is an MO disk of the calls that were captured
7 under a Title III investigation of a telephone line.

8 Q. And what telephone number is associated with that?

9 A. This is 787-934-1177.

10 Q. And Exhibit 44B, do you see that?

11 A. Yes.

12 Q. What's that?

13 A. This is the working copy, which is a copy of all
14 the calls that are on the original disk.

15 Q. And the content relationship between 44B and 44A?

16 A. They're identical.

17 Q. Now, with regard to the MO disk, the original
18 media, 42A, 43A, 44A, single call or multiple calls?

19 A. Multiple calls.

20 Q. Can you give us an idea, just generally speaking,
21 how many calls each MO disk contains?

22 A. I couldn't give you the exact number, but they
23 are -- some has hundreds, I believe one has over a
24 thousand.

25 Q. Now what 's the purpose for creating the working

1 copy and what you've referenced as 42B, 43B and 44B?

2 A. Because with Title III investigations, the
3 original, which would be the MO disk, has to remain
4 sealed, in a sealed condition, as it was when it was
5 removed from the machine. And it cannot be opened. So
6 everything that is, if you want to do anything with the
7 calls, it has to be from the working copy.

8 Q. What, then, did you do as far as the working copy
9 was concerned, in creating media for individual calls?

10 A. Each individual call from the working copy, a copy
11 was made of each individual call. And that would be
12 called the trial disk.

13 Q. And did you create -- were trial disks created in
14 this particular case?

15 A. Yes.

16 Q. And those trials disks came from the working
17 copies, what working copies?

18 A. The same working copies, 42B, 43B and 44B.

19 MR. LINDQUIST: Now, I'm going to refer you to
20 Exhibits 45C through 164C.

21 (Government's Exhibit Nos. 45C through 164C marked)

22 BY MR. LINDQUIST:

23 Q. Are you familiar with those exhibits numbers?

24 A. Yes.

25 Q. And what do those exhibit numbers correspond to?

1 A. The individual calls that were made from the
2 working copy.

3 Q. And where are those individual -- those are the
4 trial disks?

5 A. Yes. The trial disks.

6 Q. And where are those individual trial disks
7 presently?

8 A. I believe you have them.

9 Q. All right. Here in the courtroom?

10 A. Yes.

11 Q. In these file folders; is that correct?

12 A. Yes.

13 Q. Prior to your coming to court today, did you have
14 occasion to sit down and listen to those trial disks in
15 relation to the working copies that you've testified,
16 42B, 43B and 44B?

17 A. Yes. I listened to every single call on the trial
18 disk and compared them to the calls on the working disk,
19 to make sure that they were the same.

20 Q. All right. And with regard to those trial disks,
21 45C to 164C, what did you find as far as the content as
22 to those trial disks and the working copies?

23 A. That they were exactly the same.

24 Q. Now with regard to those trial disks, were you able
25 to identify which trial disks corresponded to which MO

1 disks?

2 A. Yes.

3 Q. Or which working copies of MO disks?

4 A. Yes.

5 Q. Are you able to tell us, just from your own memory,
6 or is there -- do you have something that you could look
7 at to refresh your recollection so that you could tell
8 us?

9 MR. HODGE: Objection. Leading.

10 THE COURT: Sustained. He didn't say he has a
11 problem recollecting. Ask him the question.

12 BY MR. LINDQUIST:

13 Q. Can you tell us what, the individual trial disks,
14 which MO disk they correspond to?

15 A. No. There are too many calls.

16 Q. Is there something you could, you could refer to
17 that would refresh your recollection as far as that is
18 concerned?

19 A. Yes, the exhibit list of the calls.

20 Q. Okay. Do you have that there with you?

21 A. No, I do not.

22 Q. But your testimony is that all of the trial
23 exhibits correspond to each of the -- or correspond to
24 one of the three MO disks; is that correct?

25 A. Yes.

1 MR. HODGE: Objection.

2 THE COURT: Okay. Sustained. It's been asked
3 and answered.

4 Next question.

5 BY MR. LINDQUIST:

6 Q. As you listened to those trials disks, were you
7 able to identify the speakers in those calls?

8 A. Yes.

9 Q. How were you able to identify the speakers?

10 A. From throughout the investigation, as the calls
11 would come in, you listen to them, you start to become
12 familiar with the voices. We do surveillance to
13 establish whether or not a particular person is actually
14 using a phone.

15 We run databases checks, such as license, voter
16 registration, passports, other database checks such as--

17 MR. HODGE: Objection.

18 THE COURT: Okay. Overruled.

19 THE WITNESS: -- other database checks for
20 identification, leads from other investigations, other
21 agents and confidential sources.

22 BY MR. LINDQUIST:

23 Q. With regard to the calls associated with the MO
24 disk 42A, were you able to identify the speaker that
25 corresponded to that telephone?

1 A. Yes.

2 Q. And how were you able to identify that speaker?

3 A. From listening to the calls and after the person
4 was arrested.

5 Q. What do you mean, after the person was arrested?

6 A. The person --

7 MR. HODGE: Objection. Foundation.

8 THE COURT: Overruled.

9 You're speaking on personal knowledge?

10 THE WITNESS: Yes, Your Honor.

11 THE COURT: All right. Go ahead.

12 THE WITNESS: The person that was using the
13 telephone that was intercepted was arrested by us.

14 BY MR. LINDQUIST:

15 Q. Go ahead.

16 A. And after he was arrested, I became familiar with
17 his voice from interviewing him after the arrest.

18 Q. Who was the individual that used the telephone
19 associated with MO disk 42A?

20 A. Allen Dinzey.

21 Q. And in reviewing the calls associated with the MO
22 disk 43A, were you able to identify the user of that
23 telephone?

24 A. Yes.

25 Q. And how are you able to identify the user of that

1 telephone?

2 A. Again, from becoming familiar with the voices on
3 the telephone calls as they were intercepted through
4 database checks, to verify identification, such as
5 license databases, voter registration, passports,
6 vehicle registrations and other database checks, other
7 case investigations, agents --

8 MR. HODGE: I object.

9 MR. LINDQUIST: Go ahead -- I'm not sure if I
10 heard something.

11 MR. HODGE: I said objection.

12 THE COURT: All right. Go ahead, but with the
13 next question. Sustained. I think it was getting into
14 a long narrative.

15 BY MR. LINDQUIST:

16 Q. So were you able to identify the speaker that used
17 the telephone associated with the MO disk 43A?

18 A. Yes.

19 Q. And who was that speaker?

20 A. Mr. Vernon Fagan.

21 Q. Now with regard to the MO disk associated with --
22 or MO disk Exhibit Number 44A, did you have occasion to
23 listen to the calls related to that MO disk?

24 A. Yes.

25 Q. And were you able to identify the user of that

1 telephone, the primary speaker?

2 A. Yes.

3 Q. How were you able to do that?

4 A. Through becoming familiar with the calls, the
5 voices on the calls as they come in --

6 THE COURT: How was it that you became familiar
7 with the voice?

8 THE WITNESS: By listening to them on numerous
9 times, Your Honor, and also after the individual was
10 arrested.

11 BY MR. LINDQUIST:

12 Q. What do you mean, "after" --

13 MR. HODGE: Objection, Your Honor.

14 THE COURT: Overruled.

15 BY MR. LINDQUIST:

16 Q. What do you mean, "after the individual was
17 arrested"?

18 A. The individual that was using the telephone was
19 arrested by us --

20 THE COURT: When you say "by us," were --

21 THE WITNESS: I wasn't present at the arrest.
22 But after the arrest, I became familiar with his voice.

23 BY MR. LINDQUIST:

24 Q. And how is it -- what were the circumstances --

25 MR. HODGE: Objection.

1 THE COURT: Overruled.

2 BY MR. LINDQUIST:

3 Q. What were the circumstances that allowed you to
4 become familiar with his voice?

5 A. Hearing his voice after he was arrested.

6 Q. And who was that individual, the primary user of
7 that phone?

8 A. Mr. Gelean Mark.

9 Q. Is Mr. Gelean Mark --

10 MR. HODGE: Objection.

11 BY MR. LINDQUIST:

12 Q. -- in the courtroom today?

13 A. Yes, he is.

14 Q. Would you point him out and describe what he's
15 wearing?

16 A. He's seated at -- to the right of Attorney Hodge,
17 wearing a cream-colored shirt and he has on glasses.

18 MR. LINDQUIST: May the record reflect that he
19 has identified Mr. -- the Defendant Mark?

20 THE COURT: Yes, the record will reflect the
21 witness has identified Defendant Mark.

22 BY MR. LINDQUIST:

23 Q. Now in listening to the telephone calls, the trial
24 disks that were created from the MO disks, were you able
25 to identify other speakers that those three individuals

1 that you've testified to were speaking to?

2 A. Yes.

3 Q. Is there any of those -- any one of those calls
4 where one of those three individuals is not involved in
5 the conversation?

6 A. No.

7 Q. Are there many of those calls where two of those
8 three individuals are talking together?

9 MR. HODGE: Objection. Leading.

10 THE COURT: Sustained.

11 BY MR. LINDQUIST:

12 Q. In listening to those calls, tell us what you found
13 as far as those three individuals and their conversing
14 together.

15 A. That on any call, at least one of the three
16 individuals would be on it, and on several of the calls
17 at least two of the individuals would be on the same
18 call.

19 Q. In conjunction with the creation of the trial disks
20 and your review of them, what, if anything, did you have
21 to do with the creation of transcripts?

22 A. I had to listen to each individual call and reduce
23 to writing what was verbally said on each call.

24 Q. Why were you tasked with that?

25 A. Because I'm from here, I grew up here, I understand

1 the local dialect. And a lot of the other agents are
2 not from here, and they have trouble understanding the
3 local dialect.

4 Q. All right. And was a transcript created for each
5 of the trial disks 45C through 164C?

6 A. Yes.

7 Q. And have you had a chance to review those?

8 And those would be transcripts 45B through 164C?

9 A. Yes.

10 (Government's Exhibit Nos. 45B through 164C marked)

11 BY MR. LINDQUIST:

12 Q. And can you tell us what the relationship is
13 between the transcripts and the trial disks as to those
14 particular exhibits?

15 A. Each trial disk, a transcript was made of the trial
16 disk, corresponding to that individual trial disk.

17 Q. And you personally did that?

18 A. Yes.

19 Q. Word for word?

20 A. Yes.

21 Q. All right. And so what is your testimony as far as
22 the content relationship between the transcript, each
23 transcript and each trial disk, as far as Exhibits 45
24 through 164 are concerned?

25 A. That each transcript corresponds in written form of

1 what is verbally spoken on each individual trial disk.

2 Q. And do those transcripts therefore fairly and
3 accurately portray in the written form what is verbally
4 presented on the trial disks?

5 A. Yes.

6 MR. HODGE: Objection.

7 THE COURT: Sustained.

8 BY MR. LINDQUIST:

9 Q. So the content relationship between each transcript
10 and each trial disk is what?

11 A. The content --

12 MR. HODGE: Objection.

13 THE COURT: Overruled.

14 THE WITNESS: The content is the same.

15 BY MR. LINDQUIST:

16 Q. With regard to those exhibits, 45 through 164, the
17 content generally dealt with what as far as this
18 investigation is concerned?

19 MR. HODGE: Objection. Leading.

20 THE COURT: Overruled.

21 THE WITNESS: The content dealt with the
22 conversations between the individuals that were
23 intercepted on each telephone call.

24 BY MR. LINDQUIST:

25 Q. And why were those particular conversations put

1 onto trial disks and transcribed?

2 A. So that you could have a written version of what
3 was being said on the individual disks.

4 Q. And what was the relationship as far as the drug
5 investigation was concerned?

6 A. That it represented the information that was being
7 said on the telephone in written form.

8 MR. LINDQUIST: Your Honor, then I would offer
9 Exhibits 45 through 164, 45C the trial disk -- 45C being
10 the trial disk, and B being the transcript, 45 through
11 164.

12 THE COURT: Agent Joseph, who are the speakers
13 on those, 45 through 164?

14 THE WITNESS: They were --

15 THE COURT: Were you able, were you able to
16 identify the speakers?

17 THE WITNESS: Yes, I was, Your Honor.

18 THE COURT: Who were they?

19 THE WITNESS: They were either Mr. Vernon
20 Fagan, Mr. Gelean Mark or Mr. Allen Dinzey, conversing
21 with other individuals or conversing amongst themselves.

22 THE COURT: The other individuals, did you
23 identify those other individuals?

24 THE WITNESS: Not all of them, Your Honor.
25 Some were unknown speakers. But anyone else that could

1 have been identified was identified.

2 THE COURT: Who were those others?

3 THE WITNESS: They were different individuals,
4 such as -- you want me to call names?

5 THE COURT: Yes.

6 THE WITNESS: Yes. Mr. Phillip DeLuigi,
7 Mr. Dave Long, Mr. Tai Vu, Mr. Walter Ells, Mr. Glenson
8 Isaac, Mr. Louis Rabsatt, Mr. Henry Freeman, Mr. Kelvin
9 Moses.

10 They were numerous, Your Honor.

11 THE COURT: All right.

12 Attorney Hodge?

13 MR. HODGE: Your Honor, I object to the --
14 counsel is seeking to introduce all of these?

15 MR. LINDQUIST: Yes, I am --

16 THE COURT: Attorney, what's your -- do you
17 have an objection?

18 MR. HODGE: Yes, Your Honor. I object to --

19 THE COURT: All right.

20 MR. HODGE: I object to the transcripts for
21 each of these exhibits, 45 through --

22 THE COURT: All right. The Court isn't going
23 to consider the transcripts at this point. At this
24 point the Court is only considering 45C through 164C,
25 the disks.

1 MR. HODGE: Object, Your Honor.

2 THE COURT: Attorney Moore?

3 MR. MOORE: Your Honor, I'm not entirely sure a
4 complete foundation has been established for their
5 entry.

6 THE COURT: So you object?

7 MR. MOORE: Yes, Your Honor.

8 THE COURT: All right. Thank you.

9 Ladies and gentlemen, I said 20 minutes, and I
10 intend to keep my word. Twenty minutes have elapsed.
11 We didn't get as far as I thought we might have.

12 But thank you for your patience and your
13 cooperation.

14 Let me remind you, especially since I think you've
15 got an awful lot of testimony in today and over the past
16 few days, it is really important that you not read, not
17 listen to, not view anything touching on this case in
18 any way.

19 You really need to focus on the evidence that's in
20 this courtroom, not someone else's view of it or someone
21 else's spin on the evidence.

22 Additionally, you are not to discuss this case with
23 anyone. As I said before, we take that very seriously.

24 If someone attempts to discuss it with you, bring
25 it to the Court's attention promptly and we will deal

1 with it.

2 Do not do any sort of investigation of the matters
3 discussed here.

4 There is so much information there might be a
5 temptation to take a look and see what you can find out
6 about certain things. Resist the urge. Resist that
7 temptation. You need to focus on things in court, not
8 things outside of court.

9 Finally, keep an open mind. The evidence is still
10 coming in.

11 With that, let me wish you a pleasant evening, and
12 thank you for your patience again.

13 We'll see you at the same time tomorrow, 8:45.

14 Thank you.

15 (Jury out, 6:52 p.m.)

16 MR. MOORE: Your Honor, may I be excused
17 briefly?

18 THE COURT: Yes. Be seated.

19 (Pause, Attorney Moore not present)

20 (Attorney Moore present)

21 THE COURT: All right. Agent Joseph, you
22 remain under oath.

23 Do you understand?

24 THE WITNESS: Yes, Your Honor.

25 THE COURT: You are not to discuss your

1 testimony between now and when we resume tomorrow
2 morning at 9:00 a.m.

3 Do you understand?

4 THE WITNESS: Yes, Your Honor.

5 THE COURT: And you are to be on the witness
6 stand by 9:00 a.m. tomorrow morning.

7 Do you understand?

8 THE WITNESS: Yes, Your Honor.

9 THE COURT: All right. Thank you. Have a
10 pleasant evening.

11 You can step down.

12 THE WITNESS: Thank you.

13 (Witness stood aside)

14 MR. MOORE: Your Honor, thanks for the
15 accommodation.

16 THE COURT: Of course.

17 All right. Is there anything we need to cover
18 before we adjourn for the day?

19 MR. HODGE: Your Honor, I just wanted to
20 clarify one thing. In error I indicated I had no
21 objection with respect to the first, maybe two or three
22 introductions of the cocaine exhibits. And I just
23 wanted to make sure that it was understood that my
24 relevancy objection, that was, was rejected, is
25 applicable to all the cocaine substances.

1 MR. MOORE: Your Honor, the --

2 THE COURT: Attorney Moore, anything else?

3 MR. MOORE: With regard to the tapes that are
4 about to be played, my foundation issue was not a major
5 thing.

6 I know sometimes if you're trying to make a
7 transcript, you sometimes do things with the tape, and
8 maybe it was done with the copy, to enhance or to take
9 out background noise or things that are of assistance to
10 prepare the transcript.

11 So to the extent the original tape is the original
12 tape and it hasn't been enhanced or augmented or altered
13 in some fashion, if even for the benefit of clarity or
14 to make the conversations clearer, crisper and more
15 distinct, nevertheless, I just wanted some confirmation
16 that they had not been augmented for even the purposes
17 of preparing the transcript.

18 THE COURT: All right. So are you saying you
19 do not have an objection if there's no alteration?

20 MR. MOORE: With that, if that witness makes
21 that representation, then I have no objection.

22 THE COURT: All right.

23 And Attorney Hodge, what's your position?

24 MR. HODGE: I'm sorry. Court's indulgence?

25 THE COURT: Yes.

1 (Counsel conferring)

2 MR. MOORE: That's in lieu of the transcripts,
3 Your Honor?

4 THE COURT: Right. This is just the voice.

5 Attorney Lindquist, did you have anything else you
6 wanted to bring to the Court's attention before we
7 adjourn?

8 MR. LINDQUIST: No. Pending this, I don't
9 believe so.

10 THE COURT: All right.

11 How many more witnesses does the government have?

12 We're still in the middle of this examination, and
13 I think you said you had two others.

14 MR. LINDQUIST: It depends on the ruling here.
15 Agent Joseph. And depending on the ruling, Mr. Velez,
16 and then Mr. Peak. Mr. Peak will be very, very brief.

17 THE COURT: All right.

18 MR. HODGE: And Your Honor, the -- I don't
19 withdraw my objection with respect to the tapes.

20 THE COURT: All right.

21 I'm going to sustain the objection if there's a
22 foundational issue. So that objection is sustained with
23 respect to 45 to 164.

24 MR. LINDQUIST: Could the Court --

25 THE COURT: I note that it's 119, is that

1 right?

2 Are there 119 calls, Attorney Lindquist?

3 MR. LINDQUIST: I don't know. I haven't
4 counted.

5 THE COURT: 45 through 164, is it consecutive?

6 MR. LINDQUIST: Yes.

7 THE COURT: And inclusive of the ending
8 numbers, the border numbers 45 and 164. So that's --
9 all right. I think that's 120. All right.

10 MR. LINDQUIST: Can the Court give us an idea
11 of the foundational issue?

12 THE COURT: No. I think that will be advisory.

13 But the Court always runs through the Starks
14 analysis in order to -- when it's doing these, so I
15 think everyone is aware of that, so...

16 All right. Counsel, thank you for your patience
17 today, and I will see you tomorrow morning.

18 If there are any issues, please bring them to the
19 Court's attention. I am happy to hear them before we
20 begin at 9:00 a.m. The Court is available at 8:30 or
21 sometime thereabouts.

22 All right. Thank you. Have a pleasant evening.

23 MR. HODGE: Thank you, Your Honor.

24 (7:00 p.m., court in recess)

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CERTIFICATE

This document is hereby certified
to be a true and accurate transcript
of the foregoing proceedings.

/s_____
Chandra Kean, RMR
Official Court Reporter

May 29, 2010
DATE